Oregon Vehicle Code

Compiled by

DRIVER AND MOTOR VEHICLE SERVICES

Department of Transportation

Salem, Oregon 97314

Foreword

Laws governing registration of vehicles and licensing of their operators, as well as the rules of the road, establish the pattern for safe and efficient use of Oregon streets and highways.

Subjects fully covered in this compilation of Oregon Revised Statutes (ORS) include motor vehicle titles and registration; vehicle-related business licensing; driver licensing; vehicle equipment, size and weight; abandoned vehicles; traffic offense procedures; traffic safety; financial responsibility; rules of the road; off-road vehicle regulation; registration of commercial motor vehicles; motor carriers; and railroads.

Four other ORS chapters are included in a section titled "Related Laws." In this section you will find laws governing traffic violations and offenses, administrative procedures, aircraft and motor vehicle fuel taxes and indigent persons injured in motor vehicle accidents.

The "Miscellaneous Laws" section includes laws that also may affect motor vehicle laws and may be useful to those who use this book. Only selected sections of these chapters are included.

This publication includes statutes adopted and amended through the end of the 2019 Regular Session of the 80th Legislative Assembly. It does not include any changes adopted during the 2020 Regular Legislative Session or any Special Legislative Sessions that may occur. Not all laws are in effect on the publication date of this book. Notes in smaller type may appear before or after laws to alert you to special circumstances.

ORS 802.050 (1) provides: "The Department of Transportation may compile, publish and distribute a vehicle code book containing statutes administered by the department concerning vehicles and drivers, along with other related laws. The department may establish and collect a reasonable fee for books issued to groups or persons who are not employees of the department. Any fee established under this section shall not exceed the costs of the compilation, publication and distribution of the books."

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Chapter 801

2019 EDITION

General Provisions and Definitions for Oregon Vehicle Code

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GENERAL PROVISIONS

801.010 Short title. (1) ORS chapters 801 to 826 may be cited as the Oregon Vehicle Code.

(2) ORS 809.600 to 809.640 may be cited as the Habitual Traffic Offenders Act.

(3) ORS 813.095, 813.100, 813.131, 813.132, 813.140, 813.150, 813.310, 813.320 and 813.410 to 813.440 may be cited as the Motorist Implied Consent Law. [1983 c.338 §1; 1985 c.16 §2; 1995 c.733 §10; 1997 c.25 §4; 2003 c.814 §4]

801.015 Effect of naming offenses. The names given offenses in the vehicle code do not establish or limit the elements of the offense described but are merely for the convenience of the readers of the vehicle code and of the persons administering and enforcing the vehicle code. [1983 c.338 §2]

801.020 Statements of policy and purpose; applicability of vehicle code. This section contains statements of purpose or intent that are applicable to portions of the vehicle code as described in the following:

(1) The provisions of the vehicle code and other statutory provisions described in this subsection are an exercise of the police powers of this state, and the purpose, object and intent of the sections is to provide a comprehensive system for the regulation of all motor and other vehicles in this state. This subsection is applicable to the following:

(a) Those provisions of the vehicle code relating to the administration of the Department of Transportation.

(b) Those provisions of the vehicle code relating to the registration and titling of vehicles.

(c) Those provisions of the vehicle code relating to the regulation of the businesses of vehicle dealers, dismantlers, vehicle transporters, driver training schools and instructors and the towing and recovery of vehicles.

(d) Those provisions relating to the transfer and alteration of vehicles.

(2) It is the policy of this state to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of motor vehicle reciprocal or proportional registration agreements, arrangements and declarations with other states, provinces, territories and countries with respect to vehicles registered in this and such other states, provinces, territories and countries, thus contributing to the economic and social development and growth of this state.

(3) The provisions described in this subsection shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and on the ocean shore which has been or may hereafter be declared a state recreation area. This subsection applies to provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(4) The provisions of the vehicle code applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, district or any other political subdivision of this state, subject to such specific exceptions as are set forth in the vehicle code.

(5) Except as provided otherwise by federal law, the provisions of the vehicle code shall be applicable and uniform on federal lands within this state.

(6) Except as provided otherwise by federal law, traffic rules and regulations which are promulgated by a federal authority having jurisdiction over federal lands within this state and which vary from the provisions of the vehicle code shall be the law of the local authority within whose boundaries the federal land is located, and enforceable as such, if:

(a) Local authorities are authorized to vary in the same manner under the provisions of the vehicle code; and

(b) Prior approval for the variance has been obtained by the federal authority from the governing body of the local authority within whose boundaries the federal land is located.

(7) The vehicle code shall govern the construction of and punishment for any vehicle code offense committed after June 27, 1975, the construction and application of any defense to a prosecution for such an offense and any administrative proceedings authorized or affected by the vehicle code.

(8) When all or part of a vehicle code statute is amended or repealed, the statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing Act.

(9) The provisions of the vehicle code described in this subsection relating to the operation of vehicles refer exclusively to operation of vehicles upon highways and the ocean shore which has been or may hereafter be declared to be a state recreation area, except where the vehicle code specifically provides otherwise. This subsection applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regu-

lation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(10) All reciprocity and proportional registration agreements, arrangements and declarations relating to vehicles, in force and effect on August 22, 1969, shall continue in force and effect until specifically amended or revoked as provided by law or by such arrangements or agreements.

(11) It is hereby declared to be the policy of this state:

(a) To provide maximum safety for all persons who travel or otherwise use the public highways of this state;

(b) To deny the privilege of operating motor vehicles on the public highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the state, the orders of its courts and the statutorily required acts of its administrative agencies; and

(c) To discourage repetition of criminal acts by individuals against the peace and dignity of the state and its political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws.

(12) If any of the provisions under ORS 818.200 relating to variance permits are found to contravene section 127 of title 23, United States Code, it shall not serve to render inoperative any remaining of such provisions that may be held not to conflict with that federal law. [1983 c.338 §4; 1985 c.16 §4; 2003 c.655 §84b; 2005 c.654 §36]

801.025 [1983 c.338 §5; 1985 c.16 §5; 1987 c.447 §139; repealed by 1989 c.400 §1 (801.026 enacted in lieu of 801.025)]

801.026 General exemptions; exceptions. (1) Persons, motor vehicles and equipment employed or used by a public or telecommunications utility, electric cooperative or by the United States, this state or any political subdivision of this state are exempt from the provisions of the vehicle code specified in subsection (3) of this section while on a highway and working or being used to service, construct, maintain or repair the facilities of a utility.

(2) Persons, motor vehicles and equipment employed or being used in the construction or reconstruction of a street or highway are exempt from the provisions of the vehicle code specified in subsection (3) of this section if:

(a) They are within the immediate construction project as described in the governmental agency contract, if there is a contract; and

(b) The work is being done in an area that is signed in accordance with the manual adopted under ORS 810.200.

(3) Persons, motor vehicles and equipment described in subsections (1) and (2) of this section are exempt from provisions of the vehicle code relating to rules of the road as described in ORS chapter 811, except that this subsection does not apply to:

(a) Reckless driving, as defined in ORS 811.140.

(b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(c) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(d) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(f) The provisions of ORS 811.145, 811.155, 811.170 and 811.175.

(4) Motor vehicles and equipment being used in the area and in the manner described in subsection (2) of this section are also exempt from the provisions of the vehicle code relating to vehicle size and weight to the extent set out in the governmental agency contract.

(5) Devices moved exclusively on stationary rail tracks are exempt from the vehicle code.

(6) Devices that are powered exclusively by human power are not subject to those provisions of the vehicle code that relate to vehicles. Notwithstanding this subsection, bicycles are generally subject to the vehicle code as provided under ORS 814.400.

(7) The exemptions in subsection (3) of this section do not apply to the persons and vehicles when traveling to or from the facilities or construction project. [1989 c.400 §2 (enacted in lieu of 801.025); 1999 c.1051 §82; 2018 c.22 §5]

801.030 Exemptions from amendments to vehicle code. This section describes exemptions from specific changes to the vehicle code. The exemptions allow some practice or right to continue after the change is made. The exemptions are as follows:

(1) Nothing contained in ORS 810.150 shall require the redesign, modification or replacement of street drains installed prior to September 13, 1975.

(2) Sections 2 to 169, chapter 451, Oregon Laws 1975, shall not apply to or govern the construction of or punishment for any vehicle code offense committed before June 27, 1975, or the construction and application of

any defense to a prosecution for such an offense and do not impair or render ineffectual any court or administrative proceedings or procedural matters which occurred before June 27, 1975. [1983 c.338 §6; 1985 c.171 §1]

801.035 [1983 c.338 §7; 1985 c.16 §6; 1985 c.400 §1; 1989 c.43 §15; 1991 c.407 §19; repealed by 1995 c.733 §74]

801.038 Local government regulation of cell phones in motor vehicles. A city, county or other local government may not enact or enforce any charter provision, ordinance, resolution or other provision regulating the use of cellular telephones in motor vehicles. [2001 c.133 §1]

Note: 801.038 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

801.040 Authority to adopt special provisions. This section describes circumstances where special provisions are made concerning the authority of cities, counties or other political subdivisions in relation to some portion of the vehicle code. This section is not the only section of the vehicle code that applies to such authority and shall not be interpreted to affect the vehicle code except as specifically provided in this section. The following limits are partial or complete as described:

(1) No county, municipal or other local body with authority to adopt and administer local police regulations under the Constitution and laws of this state shall enact or enforce any rule or regulation in conflict with the provisions of the vehicle code described in this subsection except as specifically authorized in the vehicle code. This subsection applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(2) Except as provided in ORS 822.230 and this subsection, no city, county or other political subdivisions shall regulate or require or issue any registration, licenses, permits or surety bonds or charge any fee for the regulatory or surety registration of any person required to obtain a certificate from the Department of Transportation under ORS 822.205. This subsection does not:

(a) Limit any authority of a city or county to license and collect a general and nondiscriminatory license fee levied upon all businesses or to levy a tax based upon business conducted by any person within the city or county.

(b) Limit the authority of any city or county to impose any requirements or conditions as part of any contract to perform towing or recovering services for the city or county.

(c) Limit the authority of any city or county to impose requirements and conditions that govern the towing of a vehicle by a towing business under ORS 98.812 so long as those requirements and conditions are consistent with the provisions of ORS 822.230.

(3) No city, county or other political subdivision of this state, nor any state agency, may adopt a regulation or ordinance that imposes a special fee for the use of public lands or waters by snowmobiles or Class I all-terrain vehicles, or for the use of any access thereto that is owned by or under the jurisdiction of either the United States, this state or any such city, county or other political subdivision. The registration fees provided by ORS 821.320 are in lieu of any personal property or excise tax imposed on snowmobiles by this state or any political subdivision. No city, county or other municipality, and no state agency shall impose any other registration or license fee on any snowmobile in this state. This subsection does not prohibit any city, county or other political subdivision, or any state agency from regulating the operation of snowmobiles or Class I all-terrain vehicles on public lands, waters and other properties under its jurisdiction and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body if such regulations are not inconsistent with ORS 821.150 to 821.292.

(4) The provisions of ORS 819.110 to 819.215 relating to towing of vehicles that are abandoned establish minimum requirements subject to the following:

(a) Notwithstanding paragraph (b) of this subsection, a county or incorporated city may supersede such provisions by ordinance or charter provision.

(b) Any road authority described under ORS 810.010 may adopt rules or procedures that do not conflict with such provisions to provide for additional protection for the owner or person with an interest in a vehicle subject to such provisions or that more quickly accomplish the procedures established under such provisions.

(5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an accident file with a designated city department a copy of any report required to be filed under ORS 811.725. All such reports shall be for the confidential use of the city department but subject to the same requirements for release of such reports as provided for the release of such reports by the department under ORS 802.220 and 802.240.

(6) Except as otherwise specifically provided in this section, in accordance with the provisions of ORS 801.041, the governing body of a county may establish by ordinance registration fees for vehicles registered at a residence or business address within the county.

(7) Except as otherwise specifically provided in this section, in accordance with the provisions of ORS 801.042, the governing body of a district may establish by ordinance registration fees for vehicles registered at a residence or business address within the district. [1983 c.338 §8; 1985 c.16 §7; 1985 c.171 §2; 1985 c.459 §2a; 1987 c.765 §3; 1989 c.864 §3; 1989 c.991 §22; 1995 c.758 §5; 1995 c.774 §6; 1999 c.977 §13; 2009 c.371 §1]

801.041 Terms and conditions for imposition of registration fee by county; rules. The following apply to the authority granted to counties by ORS 801.040 to establish registration fees for vehicles:

(1) An ordinance establishing registration fees under this section must be enacted by the county imposing the registration fee and filed with the Department of Transportation. Notwithstanding ORS 203.055 or any provision of a county charter, the governing body of a county with a population of 350,000 or more may enact an ordinance establishing registration fees. The governing body of a county with a population of less than 350,000 may enact an ordinance establishing registration fees after submitting the ordinance to the electors of the county for their approval. The governing body of the county imposing the registration fee shall enter into an intergovernmental agreement under ORS 190.010 with the department by which the department shall collect the registration fees, pay them over to the county and, if necessary, allow the credit or credits described in ORS 803.445 (5). The intergovernmental agreement must state the date on which the department shall begin collecting registration fees for the county.

(2) The authority granted by this section allows the establishment of registration fees in addition to those described in ORS 803.420 and 803.422. There is no authority under this section to affect registration periods, qualifications, cards, plates, requirements or any other provision relating to vehicle registration under the vehicle code.

(3) Except as otherwise provided for in this subsection, when registration fees are imposed under this section, they must be imposed on all vehicle classes. Registration fees as provided under this section may not be imposed on the following:

(a) Snowmobiles and Class I all-terrain vehicles.

(b) Fixed load vehicles.

(c) Vehicles registered under ORS 805.100 to disabled veterans.

(d) Vehicles registered as antique vehicles under ORS 805.010.

(e) Vehicles registered as vehicles of special interest under ORS 805.020.

(f) Government-owned or operated vehicles registered under ORS 805.040 or 805.045.

(g) School buses or school activity vehicles registered under ORS 805.050.

(h) Law enforcement undercover vehicles registered under ORS 805.060.

(i) Vehicles registered on a proportional basis for interstate operation.

(j) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (14)(a) or (b).

(k) Vehicles registered as farm vehicles under the provisions of ORS 805.300.

(L) Travel trailers, campers and motor homes.

(m) Vehicles registered to an employment address as provided in ORS 802.250 when the eligible public employee or household member's residence address is not within the county of the employment address. The department may adopt rules it considers necessary for the administration of this paragraph.

(n) Vehicles registered under ORS 805.110 to former prisoners of war.

(4) Any registration fee imposed by a county must be a fixed amount not to exceed, with respect to any vehicle class, the sum of the registration fee established under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. For vehicles on which a flat fee is imposed under ORS 803.420, the fee must be a whole dollar amount.

(5) Moneys from registration fees established under this section must be paid to the county establishing the registration fees as provided in ORS 802.110.

(6) Except as provided in section 3, chapter 392, Oregon Laws 2019, or unless a different distribution is agreed upon by the county and the cities within the jurisdiction of the county, the county ordinance shall provide for payment of at least 40 percent of the moneys from registration fees established under this section to cities within the county.

(7) The moneys for the cities and the county shall be used for any purpose for which moneys from registration fees may be used, including the payment of debt service and costs related to bonds or other obligations issued for such purposes.

(8) Two or more counties may act jointly to impose a registration fee under this section. The ordinance of each county acting jointly with another under this subsection must provide for the distribution of moneys collected through a joint registration fee. [1989 c.864 §4; 1993 c.751 §3; 2003 c.655 §85; 2009 c.865 §§40,40a; 2011 c.145 §§2,3; 2015 c.404 §1; 2017 c.62 §2; 2017 c.750 §39b; 2018 c.24 §1; 2018 c.93 §24; 2019 c.392 §1]

Note: 801.041, 801.042 and 801.043 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 2 and 3, chapter 24, Oregon Laws 2018, provide:

Sec. 2. Section 3 of this 2018 Act is added to and made a part of the Oregon Vehicle Code. [2018 c.24 §2]

Sec. 3. (1) Notwithstanding ORS 801.041 (6), a county ordinance that imposes a vehicle registration fee under ORS 801.041 is not required to provide for payment of at least 40 percent of moneys from the registration fee to cities within the county, if the county:

(a) Has a population of 650,000 or more; and

(b) Uses the moneys from the registration fee to pay for planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland or the approaches to the bridge, including the payment of debt service and costs related to bonds or other obligations issued for such purposes.

(2) This section applies to county vehicle registration fees:

(a) That take effect on or before October 1, 2018; and

(b) That are imposed for the purpose of planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland or the approaches to the bridge, including the payment of debt service and costs related to bonds or other obligations issued for such purposes. [2018 c.24 §3]

Note: Sections 2 and 3, chapter 392, Oregon Laws 2019, provide:

Sec. 2. Section 3 of this 2019 Act is added to and made a part of the Oregon Vehicle Code. [2019 c.392 §2]

Sec. 3. (1) A county ordinance that imposes a vehicle registration fee under ORS 801.041 is not required to provide for payment of at least 40 percent of moneys from the registration fee to cities within the county if the county:

(a) Has a population of 650,000 or more; and

(b) Uses the moneys from the registration fee to pay for performing capital maintenance on, planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland, or the approaches to the bridge, including the payment of debt service and costs related to bonds or other obligations issued for such purposes.

(2) This section applies to county vehicle registration fees that are imposed for the purpose of performing capital maintenance on, planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland, or the approaches to the bridge, including the payment of debt service and costs related to bonds or other obligations issued for such purposes. [2019 c.392 §3]

801.042 Terms and conditions for imposition of registration fee by district; rules. The following apply to the authority granted to a district by ORS 801.040 to establish registration fees for vehicles:

(1) Before the governing body of a district can impose a registration fee under this section, it must submit the proposal to the electors of the district for their approval and, if the proposal is approved, enter into an intergovernmental agreement under ORS 190.010 with the governing bodies of all counties, other districts and cities with populations of over 300,000 that overlap the district. The intergovernmental agreement must state the registration fees and, if necessary, how the revenue from the fees shall be apportioned among counties and the districts. Before the governing body of a county can enter into such an intergovernmental agreement, the county shall consult with the cities in its jurisdiction.

(2) If a district raises revenues from a registration fee for purposes related to highways, roads, streets and roadside rest areas, the governing body of that district shall establish a Regional Arterial Fund and shall deposit in the Regional Arterial Fund all such registration fees.

(3) Interest received on moneys credited to the Regional Arterial Fund shall accrue to and become a part of the Regional Arterial Fund.

(4) The Regional Arterial Fund must be administered by the governing body of the district referred to in subsection (2) of this section and such governing body by ordinance may disburse moneys in the Regional Arterial Fund. Moneys within the Regional Arterial Fund may be disbursed only for a program of projects recommended by a joint policy advisory committee on transportation consisting of local officials and state agency representatives designated by the district referred to in subsection (2) of this section. The projects for which the joint policy advisory committee on transportation can recommend funding must concern arterials, collectors or other improvements designated by the joint policy advisory committee on transportation.

(5) Ordinances establishing registration fees under this section must be filed with the Department of Transportation. The governing body of the district imposing the registration fee shall enter into an intergovernmental agreement under ORS 190.010 with the department by which the department shall collect the registration fees, pay them over to the district and, if necessary, allow the credit or credits described in ORS 803.445 (5). The intergovernmental agreement must state the

date on which the department shall begin collecting registration fees for the district.

(6) The authority granted by this section allows the establishment of registration fees in addition to those described in ORS 803.420 and 803.422. There is no authority under this section to affect registration periods, qualifications, cards, plates, requirements or any other provision relating to vehicle registration under the vehicle code.

(7) Except as otherwise provided for in this subsection, when registration fees are imposed under this section, the fees must be imposed on all vehicle classes. Registration fees as provided under this section may not be imposed on the following:

(a) Snowmobiles and Class I all-terrain vehicles.

(b) Fixed load vehicles.

(c) Vehicles registered under ORS 805.100 to disabled veterans.

(d) Vehicles registered as antique vehicles under ORS 805.010.

(e) Vehicles registered as vehicles of special interest under ORS 805.020.

(f) Government-owned or operated vehicles registered under ORS 805.040 or 805.045.

(g) School buses or school activity vehicles registered under ORS 805.050.

(h) Law enforcement undercover vehicles registered under ORS 805.060.

(i) Vehicles registered on a proportional basis for interstate operation.

(j) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (14)(a) or (b).

(k) Vehicles registered as farm vehicles under the provisions of ORS 805.300.

(L) Travel trailers, campers and motor homes.

(m) Vehicles registered to an employment address as provided in ORS 802.250 when the eligible public employee or household member's residence address is not within the county of the employment address. The department may adopt rules it considers necessary for the administration of this paragraph.

(n) Vehicles registered under ORS 805.110 to former prisoners of war.

(8) Any registration fee imposed by the governing body of a district must be a fixed amount not to exceed, with respect to any vehicle class, the registration fee established under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. For vehicles on which a flat fee is imposed under ORS 803.420, the fee must be a whole dollar amount. [1989 c.864 §5; 1993 c.751 §4; 2003 c.655 §86; 2015 c.404 §2; 2017 c.62 §3; 2017 c.750 §39c; 2018 c.93 §25]

Note: See first note under 801.041.

801.043 Moneys required by department for initial implementation of registration fees. Moneys required by the Department of Transportation to establish a system for the initial implementation of the collection and distribution of additional registration fees authorized by chapter 864, Oregon Laws 1989, shall be taken from the moneys that would otherwise be distributed to the counties and cities under ORS 366.739. [1989 c.864 §9]

Note: See first note under 801.041.

Note: Legislative Counsel has substituted "chapter 864, Oregon Laws 1989," for the words "this Act" in section 9, chapter 864, Oregon Laws 1989, compiled as 801.043. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 1989 Comparative Section Table located in Volume 22 of ORS.

801.045 Permissive use of private roadway. Nothing in the provisions of the vehicle code described in this section shall prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use, or from requiring different or additional conditions than those specified or from otherwise regulating such use as may seem best to such owner. This section applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles. [1983 c.338 §9]

801.050 Privilege of motorist to use highways. Subject to compliance with the motor vehicle law of this state, owners and operators of motor vehicles are granted the privilege of using the highways of this state. [1983 c.338 §10; 1985 c.16 §8]

801.055 Weight standards; Department of Transportation responsibility for weight determination; rules. (1) References in the vehicle code to weights and measures refer to United States Standards thereof.

(2) For purposes of the vehicle code, the weights of vehicles, combinations of vehicles, parts of vehicles, wheels or axles shall be determined by the use of methods, procedures and devices established by the Department of Transportation by rule. The rules established in accordance with this subsection may include any or all of the following:

(a) Methods and procedures to determine weights when weighing devices or facilities are not convenient.

(b) Standards and certification procedures for weighing devices.

(c) Any other rules the department determines necessary or convenient for pur-

poses of this subsection. [1983 c.338 §11; 1985 c.172 §1]

801.060 [2009 c.432 §1; repealed by 2017 c.568 §1]

801.063 [2009 c.432 §2; repealed by 2017 c.568 §1]

801.066 [2009 c.432 §3; repealed by 2017 c.568 §1]

DEFINITIONS

801.100 Definitions generally. Except where the context requires otherwise, the definitions given in the vehicle code govern its construction. [1983 c.338 §12]

801.105 [1983 c.338 §13; repealed by 1993 c.741 §147]

801.110 "Alley." "Alley" means a street or highway primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular traffic. [1983 c.338 §14]

801.115 "Ambulance." "Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities. [1983 c.338 §15; 2007 c.70 §320]

801.120 "Ambulatory disability." "Ambulatory disability" means a disability because of which a person:

(1) Has a physical and permanent disability to such a degree that the person is unable to move from place to place without the aid of a wheelchair;

(2) Is not able to cross curbs because of paralysis or loss of function of the person's legs;

(3) Is missing one or both legs; or

(4) Has a permanently impaired or unsteady gait that makes it impossible or impractical to walk as a means of transportation. [1983 c.338 §16; 2007 c.70 §321]

801.125 "Antique vehicle." "Antique vehicle" means a vehicle that is older than one-half the number of years between the current year and 1900 and that is maintained as a collector's item. [1983 c.338 §17; 2003 c.122 §1]

801.127 "Arterial." "Arterial" or "arterial highway" means a highway that is used primarily by through traffic. [1997 c.404 §2]

801.130 "Assembled vehicle." "Assembled vehicle" means a vehicle:

(1) With a body that does not resemble any particular year model or make of vehicle;

(2) That is not a vehicle rebuilt by a manufacturer;

(3) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(4) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica. [1983 c.338 §18; 1985 c.402 §3]

801.133 "Autocycle." "Autocycle" means a motorcycle that:

(1) Is manufactured to travel on three wheels;

(2) Has a steering wheel for steering control;

(3) Has nonstraddle seating; and

(4) Is equipped with a manufacturer-installed three-point safety belt or safety harness. [2017 c.296 §2]

801.135 "Axle." "Axle" means any structure or structures, whether in one or more segments, of any vehicle, supported by wheels and on which the wheels rotate, so spaced longitudinally that the centers thereof are included between two vertical parallel transverse planes 40 inches apart. [1983 c.338 §19]

801.140 "Balance trailer." "Balance trailer" means every trailer, other than a self-supporting trailer, pole trailer or semi-trailer, designed so that its weight and that of its load is substantially balanced upon its axle or axles and so that it couples to the towing vehicle with a device other than a fifth wheel hitch. The definition in this section is based upon design features and, except as otherwise provided in this section, does not prohibit a balance trailer from fitting into another classification of trailer based on use. [1983 c.338 §20; 1985 c.16 §9]

801.145 [1983 c.338 §21; 1999 c.1051 §278; repealed by 2011 c.597 §112]

801.150 "Bicycle." "Bicycle" means a vehicle that:

(1) Is designed to be operated on the ground on wheels;

(2) Has a seat or saddle for use of the rider;

(3) Is designed to travel with not more than three wheels in contact with the ground;

(4) Is propelled exclusively by human power; and

(5) Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter. [1983 c.338 §22]

801.155 "Bicycle lane." "Bicycle lane" means that part of the highway, adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law. A bicycle lane exists in an intersection if the bicycle lane is marked on opposite sides of the intersection in the same direction of travel. [1983 c.338 §23; 2019 c.120 §1]

801.160 "Bicycle path." "Bicycle path" means a public way, not part of a highway, that is designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law. [1983 c.338 §24]

801.163 "Biometric data." "Biometric data" means measurements of the physical characteristics of an individual's face that can be used to authenticate the identity of an individual. [2005 c.775 §2]

801.165 "Bus trailer." "Bus trailer" means any trailer designed or used for carrying human beings. [1983 c.338 §25]

801.170 "Business district." "Business district" means the territory contiguous to a highway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides, is occupied by buildings used for business. [1983 c.338 §26]

801.175 "Canceled"; "cancellation." (1) "Canceled," with reference to vehicle registration or title, means that the registration or title is declared void and terminated and new registration or title may be obtained only as permitted by law.

(2) "Cancellation" with reference to driving privileges or identification cards means the annulment or termination by formal action of the Department of Transportation of a person's driving privileges or identification card, or of a person's right to apply for privileges or identification card, because of some error or defect in a document or because the person is not eligible for the privileges or card. [1983 c.338 §27; 1985 c.16 §10; 1993 c.393 §1]

801.180 "Camper." "Camper" means a structure that:

(1) Has a floor;

(2) Is designed to be mounted upon a motor vehicle;

(3) Is not permanently attached to a motor vehicle upon which it is mounted;

(4) Is designed to provide facilities for human habitation or for camping;

(5) Is six feet or more in overall length;

(6) Is five and one-half feet or more in height from floor to ceiling at any point; and

(7) Has no more than one axle designed to support a portion of the weight of the camper. [1983 c.338 §28]

801.183 "Certificate of sale." "Certificate of sale" means a document that contains the name and address of the purchaser and seller of a motor vehicle or component part, the date of sale, the consideration paid and a description of the vehicle or part and other essential elements of a sale of a motor vehicle or major component part. [2005 c.654 §2]

801.185 "Certificate of title." "Certificate of title" means a paper document issued by any jurisdiction specifically as evidence of vehicle ownership. A certificate of title is not necessarily the only evidence of vehicle ownership issued by a jurisdiction. [1983 c.338 §29; 1985 c.16 §11; 1987 c.217 §1; 1989 c.991 §23; 1991 c.873 §22; 1993 c.233 §4]

801.187 "Circulatory roadway." "Circulatory roadway" means the portion of a highway within a roundabout that is used by vehicles to travel counterclockwise around a central island. A circulatory roadway does not have a crosswalk. [2001 c.464 §3]

801.190 "Class I all-terrain vehicle." "Class I all-terrain vehicle" means a motorized, off-highway recreational vehicle that:

(1) Is 50 inches or less in width;

(2) Has a dry weight of 1,200 pounds or less;

(3) Travels on three or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less;

(4) Uses handlebars for steering;

(5) Has a seat designed to be straddled for the operator; and

(6) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain. [1985 c.459 §2; 1995 c.775 §9; 1997 c.228 §1; 2011 c.360 §1]

801.193 "Class II all-terrain vehicle." "Class II all-terrain vehicle" means any motor vehicle that:

(1) Weighs more than or is wider than a Class I all-terrain vehicle;

(2) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;

(3) Is actually being operated off a highway or is being operated on a highway for agricultural purposes under ORS 821.191; and

(4) Is not a Class IV all-terrain vehicle. [1987 c.587 §2; 2005 c.227 §1; 2007 c.207 §1; 2011 c.360 §2]

801.194 "Class III all-terrain vehicle" and "Class IV all-terrain vehicle." (1) "Class III all-terrain vehicle" means a motorcycle that travels on two tires and that is actually being operated off highway.

(2) "Class IV all-terrain vehicle" means any motorized vehicle that:

(a) Travels on four or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less;

(b) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;

(c) Has nonstraddle seating;

(d) Has a steering wheel for steering control;

(e) Has a dry weight of 2,500 pounds or less; and

(f) Is 80 inches wide or less at its widest point. [1989 c.991 §2; 2011 c.360 §3; subsection (2) of 2011 Edition enacted as 2011 c.360 §5; 2019 c.491 §4]

801.195 [1983 c.338 §31; renumbered 801.198 in 1997]

801.196 [1989 c.723 §2; 1991 c.284 §4; renumbered 801.199 in 1997]

801.197 "Collector." "Collector" or "collector highway" means a highway that serves primarily to funnel traffic from one local highway to another or between arterials and local highways. [1997 c.404 §3]

801.198 "Combination of vehicles." "Combination of vehicles" means two or more vehicles coupled together. [Formerly 801.195]

801.199 "Combined weight." "Combined weight" means the total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles. [Formerly 801.196]

801.200 "Commercial bus." "Commercial bus" means every motor vehicle designed or used for carrying passengers and their personal baggage and express for compensation, except:

(1) Taxicabs that:

(a) Are passenger vehicles with a passenger seating capacity that does not exceed five;

(b) Carry passengers for hire where destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time;

(c) Are operated under a current license or permit issued by a city, county or other unit of local government where a permit or license is required for the operation of a taxicab; and

(d) Transport persons or property, or both, between points in Oregon.

(2) Vehicles commonly known and used as private passenger vehicles and not operated for compensation except in the transportation of students to or from school. [1983 c.338 §32; 1985 c.16 §12]

801.205 "Commercial bus trailer." "Commercial bus trailer" means a bus trailer:

(1) That is designed or used for carrying passengers and their personal baggage for compensation.

(2) Other than a vehicle commonly known and used as a private passenger vehicle not operated for compensation except in the transportation of students to or from school. [1983 c.338 §33; 1985 c.16 §13]

801.207 "Commercial driver license" and "commercial driving privileges." (1) "Commercial driver license" means a driver license issued by this state or any other jurisdiction that authorizes its holder to drive a commercial motor vehicle if the holder also has any necessary endorsements to the license.

(2) "Commercial driving privileges" means the driving privileges granted by a commercial driver license or a commercial learner driver permit issued by this state or any other jurisdiction, either of which authorizes the individual to operate a class of commercial motor vehicle as permitted by the commercial driver license or commercial learner driver permit, subject to any endorsements or restrictions. [1989 c.636 §3; 2003 c.14 §457; subsection (2) of 2013 Edition enacted as 2013 c.237 §2]

801.208 "Commercial motor vehicle." (1) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles and one or more vehicles that:

(a) Has a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of one or more towed units, with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater;

(b) Has a gross vehicle weight rating or gross vehicle weight of 26,001 pounds or more;

(c) Is designed to transport 16 or more persons, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials.

(2) Notwithstanding subsection (1) of this section, the term "commercial motor vehicle" does not include the following:

(a) An emergency fire vehicle being operated by firefighters as defined in ORS 652.050;

(b) Emergency vehicles being operated by qualified emergency service volunteers as defined in ORS 401.358;

(c) A motor home used to transport or house, for nonbusiness purposes, the operator or the operator's family members or personal possessions; or

(d) A recreational vehicle that is operated solely for personal use. [1989 c.636 §2; 1991

c.185 §1; 1991 c.676 §1; 1999 c.359 §1; 2007 c.387 §1; 2009 c.395 §3; 2009 c.718 §27; 2011 c.470 §1; 2013 c.237 §48]

801.210 "Commercial vehicle." "Commercial vehicle" means a vehicle that:

(1) Is used for the transportation of persons for compensation or profit; or

(2) Is designed or used primarily for the transportation of property. [1983 c.338 §34]

801.215 "Commission." "Commission" means the Oregon Transportation Commission. [1983 c.338 §35]

801.217 "Converter dolly." "Converter dolly" means an auxiliary axle assembly equipped with a fifth wheel hitch and used to convert a semitrailer to a full trailer. [1991 c.284 §2]

801.220 "Crosswalk." "Crosswalk" means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked crosswalks have been indicated, such crosswalks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

(1) Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:

(a) The connections of the lateral lines of the sidewalks, shoulders or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or

(b) The prolongation of the lateral lines of a sidewalk, shoulder or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.

(2) If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than six feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk. [1983 c.338 §36]

801.225 "Department." "Department" means the Department of Transportation. [1983 c.338 §37]

801.230 "Director." "Director" means Director of Transportation. [1983 c.338 §38]

801.235 [1983 c.338 §39; 1985 c.139 §3; 1987 c.296 §1; 1989 c.243 §1; 2007 c.70 §322; renumbered 801.387 in 2007]

801.236 "Dismantler." "Dismantler" means a person who is engaged in the business of:

(1) Buying, selling, dealing in or processing, except for processing into scrap metal, motor vehicles for the purpose of destroying, salvaging, dismantling, disassembling, reducing to major component parts, crushing, compacting, recycling or substantially altering in form; or

(2) Buying, selling, dealing in or processing motor vehicle major component parts that are stocked in the inventory of the business, if the buying, selling, dealing in or processing of major component parts is not part of a business selling new vehicles or repairing vehicles. [2005 c.654 §3]

801.237 "District" defined for certain purposes. As used in this section and ORS 267.001, 268.503, 801.040, 801.042, 802.110, 803.420, 803.445 and 803.585, "district" means a mass transit or transportation district of over 400,000 persons established under ORS chapter 267 and a metropolitan service district of over 400,000 persons established under ORS chapter 268. [1989 c.864 §2a; 2009 c.865 §40d]

Note: 801.237 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

801.240 [1983 c.338 §40; repealed by 1993 c.741 §147]

801.245 "Driver license." "Driver license" or "license" may have any or all of the meanings provided for the terms under this section as required or appropriate under the section referring to the term. The term "driver license" may be used interchangeably with "license" and either term may be used in any or all of the following ways:

(1) It may refer to a document issued by this state or any other jurisdiction as evidence of a grant of driving privileges.

(2) It may refer to general driving privileges granted by this state or another jurisdiction. [1983 c.338 §54; 1985 c.182 §1; 1985 c.608 §2]

801.250 "Driver permit." "Driver permit" means a grant of driving privileges by this state or another jurisdiction that is more limited than those available under a license or that is only available under special or limited circumstances. The term may also refer to a document issued as evidence of a grant of driving privileges under a driver permit. Driver permits issued by this state include the following:

(1) Applicant temporary driver permit described under ORS 807.310.

(2) Court issued temporary driver permit described under ORS 807.320.

(3) Disability golf cart driver permit described under ORS 807.210.

(4) Emergency driver permit described under ORS 807.220.

(5) Instruction driver permit described under ORS 807.280.

(6) Hardship driver permit described under ORS 807.240.

(7) Special student driver permit described under ORS 807.230.

(8) Special temporary instruction driver permit described under ORS 807.290.

(9) Court bail driver permit described under ORS 807.330.

(10) Temporary driver permit described under ORS 813.110.

(11) Commercial learner driver permit described under ORS 807.285. [1983 c.338 §41; 1985 c.16 §14; 1985 c.608 §1; 1987 c.801 §1; 2013 c.237 §34; 2018 c.76 §6]

801.255 "Driving privilege." "Driving privilege" means the grant of authority by a jurisdiction to a person that allows that person to drive a vehicle on highways within that jurisdiction. Driving privileges grant authority to a person not to a vehicle. The driving privilege includes any such grant of authority whether or not documents are issued as evidence of the authority. In this state, driving privileges may be granted under:

(1) A license as defined under ORS 801.207 and 801.245.

(2) Driver permits as described in ORS 801.250.

(3) The driving privileges established under ORS 807.020.

(4) Any endorsement of a license or driver permit or limitations on a license or driver permit that allows a person to operate a motor vehicle. [1983 c.338 §42; 1989 c.636 §8; 2003 c.14 §458]

801.258 "Electric assisted bicycle." "Electric assisted bicycle" means a vehicle that:

(1) Is designed to be operated on the ground on wheels;

(2) Has a seat or saddle for use of the rider;

(3) Is designed to travel with not more than three wheels in contact with the ground;

(4) Has both fully operative pedals for human propulsion and an electric motor; and

(5) Is equipped with an electric motor that:

(a) Has a power output of not more than 1,000 watts; and

(b) Is incapable of propelling the vehicle at a speed of greater than 20 miles per hour on level ground. [1997 c.400 §2; 1999 c.59 §233]

801.259 "Electric personal assistive mobility device." "Electric personal assistive mobility device" means a device that:

(1) Is self-balancing on two nontandem wheels;

(2) Is designed to transport one person in a standing position;

(3) Has an electric propulsion system; and

(4) Has a maximum speed of 15 miles per hour. [2003 c.341 §2]

801.260 "Emergency vehicle." "Emergency vehicle" means a vehicle that is equipped with lights and sirens as required under ORS 820.350 and 820.370 and that is any of the following:

(1) Operated by public police, fire or airport security agencies.

(2) Designated as an emergency vehicle by a federal agency.

(3) Designated as an emergency vehicle by the Director of Transportation. [1983 c.338 §43; 1993 c.751 §5]

801.261 "Endorsement." "Endorsement," when used in relation to driving privileges, means a grant of driving privileges, or the evidence thereof, to a person who holds a license, or in some instances a driver permit, allowing the person to exercise driving privileges that are not granted by the license or driver permit. The types of endorsements granted by this state and the driving privileges granted under each type of endorsement are established by ORS 807.035. [2003 c.14 §461]

801.263 "Engine brake." (1) "Engine brake" means a device that converts a power-producing diesel engine into a power-absorbing air compressor, resulting in a net energy loss.

(2) "Unmuffled engine brake" means an engine brake that is not equipped with a muffler in good working order. [1993 c.314 §9]

801.265 "Farm tractor." "Farm tractor" means a motor vehicle designed and used primarily in agricultural operations for drawing or operating other farm machines, equipment and implements of husbandry. [1983 c.338 §44]

801.270 "Farm trailer." "Farm trailer" means a vehicle that:

(1) Is without motive power;

(2) Is a vehicle other than an implement of husbandry;

(3) Is designed to carry property; and

(4) Is drawn by a farm tractor. [1983 c.338 §45]

801.272 "Field sobriety test." "Field sobriety test" means a physical or mental test, approved by the Department of State Police by rule after consultation with the Department of Public Safety Standards and Training, that enables a police officer or trier of fact to screen for or detect probable impairment from intoxicating liquor, cannabis, a controlled substance or an inhalant, or any combination of intoxicating liquor, cannabis, a controlled substance and an inhalant. [1989 c.576 §17; 1997 c.853 §60; 1999 c.619 §4; 2017 c.21 §74]

801.275 "Fifth wheel hitch." "Fifth wheel hitch" means a coupling device for vehicles that is commonly known as a kingpin and fifth wheel assembly. [1983 c.338 §46]

801.280 "Financial responsibility requirements." "Financial responsibility requirements" means the ability to respond in damages for liability, on account of accidents arising out of the ownership, operation, maintenance or use of a motor vehicle in a manner provided under ORS 806.060. [1983 c.338 §74; 1985 c.16 §20]

801.285 "Fixed load vehicle." "Fixed load vehicle" means all of the following apply to the vehicle:

(1) It is a vehicle with or without motive power that is designed and used primarily:

(a) To support and move a permanent load in the form of equipment or appliances constructed as part of or permanently attached to the body of the vehicle;

(b) For transportation of equipment or appliances that are ordinarily kept on or in the vehicle in order that the vehicle may be used for its primary purpose; and

(c) Except for the transportation of permanent load, appliances and equipment described in paragraphs (a) and (b) of this subsection, for purposes other than for the transportation of persons or property over public highways or streets.

(2) It is a vehicle other than the following:

(a) A travel trailer.

(b) A tow vehicle, including a tow vehicle with cranes, hoists or dollies.

(c) A truck-mounted transit mixer or volumetric mixer.

(d) A self-propelled mobile crane.

(e) A bucket truck.

(3) It is a vehicle that may include, but is not limited to, the following vehicles:

(a) Air compressors, air drills, asphalt plants, asphalt spreaders, bituminous plants, bituminous mixers, bituminous spreaders and bucket loaders;

(b) Concrete batch plants, concrete mixers other than transit mixers or volumetric mixers, cement spreaders, carryalls, crawler cranes, crushers and crushing plants, diggers and ditchers, power units and plants;

(c) Earthmoving scrapers, electric generating equipment, electric load-bank and wiring equipment, front-end loaders, leveling graders, lighting plants and portable wiring, motor graders, payloaders, power hoists, road graders, scoopmobiles, skip hoists, stackers and hoists;

(d) Athey wheels, backhoes, bituminous and concrete pavement finishers, drag lines, fork lift trucks, log loaders, portable bins, portable parts and storage bins, portable shops, portable storage tanks, power shovels, road rollers, sheepsfoot rollers and paving mixers, towermobiles, welders, yarders;

(e) Bituminous and concrete finishing machines, elevator equipment, scarifiers and rooters, traction engines, vibro screens and rotary screens, wheeled and crawler tractors other than truck tractors; and

(f) Apron feeders, grain grinders, grain rollers, sand classifiers and drags, sawmills and special construction equipment, scrap metal balers, scrubber screens and plate feeders. [1983 c.338 §47; 1985 c.71 §1; 1995 c.79 §367; 2003 c.655 §87; 2017 c.539 §1; 2019 c.491 §51]

801.288 "Funeral escort vehicle"; "funeral lead vehicle"; "funeral procession." (1) "Funeral escort vehicle" means any two-wheel or three-wheel vehicle that is accompanying a funeral procession and is properly equipped under ORS 811.800.

(2) "Funeral lead vehicle" means any vehicle that is properly equipped under ORS 811.800 and is used to lead and facilitate the movement of a funeral procession.

(3) "Funeral procession" means two or more vehicles, including any funeral lead vehicle or funeral escort vehicle, accompanying the body or cremated remains of a deceased person. [1991 c.482 §§2,3,4]

801.290 "Future responsibility filing." "Future responsibility filing" means the requirement described under ORS 806.240 to file and maintain proof of compliance with financial responsibility requirements with the Department of Transportation. [1983 c.338 §48]

801.295 "Golf cart." "Golf cart" means a motor vehicle that:

(1) Has not less than three wheels in contact with the ground;

(2) Has an unloaded weight less than 1,300 pounds;

(3) Is designed to be and is operated at not more than 15 miles per hour; and

(4) Is designed to carry golf equipment and not more than two persons, including the driver. [1983 c.338 §49]

801.297 "Gross combination weight rating." "Gross combination weight rating" means the greater of:

(1) The value specified by the manufacturer of the power unit of a vehicle, if:

(a) The value is displayed on the Federal Motor Vehicle Safety Standards certification label; and

(b) The vehicle is towing another unit; or

(2) The sum of the gross vehicle weight ratings or gross vehicle weights of the power unit and the towed unit, or any combination thereof, that produces the highest value. [1989 c.636 §4; 2017 c.190 §9]

801.298 "Gross vehicle weight rating." "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. [1989 c.636 §5; 1991 c.185 §2]

801.300 "Group of axles." "Group of axles" means an assemblage of two or more consecutive axles considered together in determining their combined load effect on a bridge or pavement structure. [1983 c.338 §50; 1985 c.172 §2]

801.303 "Hazardous materials." "Hazardous materials" has the meaning given that term in 49 C.F.R. 383.5, as in effect on January 1, 2013. [1989 c.636 §6; 2005 c.649 §31; 2013 c.237 §47]

801.305 "Highway." (1) "Highway" means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

(2) For the purpose of enforcing traffic offenses contained in the Oregon Vehicle Code, except for ORS 810.230, "highway" includes premises open to the public that are owned by a homeowners association and whose boundaries are contained within a service district established on or before July 1, 2002, under ORS 451.410 to 451.610. [1983 c.338 §51; 2007 c.561 §1]

801.307 [2007 c.122 §3; 2009 c.395 §5; repealed by 2013 c.237 §12]

801.308 "Identity source documents." "Identity source documents" means documents required for the issuance, renewal or replacement of a driver license, a driver permit or an identification card by the Department of Transportation. [2008 c.1 §6]

801.310 "Implement of husbandry." "Implement of husbandry" means a vehicle or device used exclusively in agricultural operations. Truck trailers with a loaded weight of more than 8,000 pounds, motor vehicles, bus trailers, manufactured dwellings, prefabricated structures and recreational vehicles greater than eight and one-half feet in width and travel trailers are not implements of husbandry unless limited by design to agricultural uses. [1983 c.338 §52; 1985 c.16 §15; 1987 c.119 §1; 1989 c.723 §3; 1993 c.696 §6; 2003 c.655 §88]

801.315 [1985 c.608 §3; 1989 c.636 §9; repealed by 2003 c.14 §459]

801.317 "Inhalant." "Inhalant" means any glue, paint, cement or other substance that is capable of causing intoxication and that contains one or more of the following chemical compounds:

(1) Acetone;

(2) Amyl acetate;

(3) Benzol or benzene;

(4) Butane;

(5) Butyl acetate;

(6) Butyl alcohol;

(7) Carbon tetrachloride;

(8) Chloroform;

(9) Cyclohexanone;

(10) Difluoroethane;

(11) Ethanol or ethyl alcohol;

(12) Ethyl acetate;

(13) Hexane;

(14) Isopropanol or isopropyl alcohol;

(15) Isopropyl acetate;

(16) Methyl cellosolve acetate;

(17) Methyl ethyl ketone;

(18) Methyl isobutyl ketone;

(19) Nitrous oxide;

(20) Toluol or toluene;

(21) Trichloroethylene;

(22) Tricresyl phosphate;

(23) Xylol or xylene; or

(24) Any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors or fumes. [1999 c.619 §2]

801.320 "Intersection." "Intersection" means the area of a roadway created when two or more roadways join together at any angle, as described in one of the following:

(1) If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines.

(2) If the roadways do not have curbs, the intersection is the area embraced within the prolongation or connection of the lateral boundary lines of the roadways.

(3) The junction of an alley with a roadway does not constitute an intersection.

(4) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersection highway is a separate intersection. In the event the intersection highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways is a separate intersection. [1983 c.338 §53]

801.323 "Issue"; "issuance." "Issue" or "issuance," when used in relation to title, means either the creation of a record of title for a vehicle or physical delivery of a certificate of title to a person, or both. [1993 c.233 §3]

801.325 "Limited visibility condition." "Limited visibility condition" means:

(1) Any time from sunset to sunrise; and

(2) Any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles are not clearly discernible on a straight, level, unlighted highway at a distance of 1,000 feet ahead. [1983 c.338 §55; 1987 c.158 §159]

801.330 "Loaded weight." "Loaded weight" means the weight transmitted to the road, through an axle or set of axles, when the vehicle is fully loaded. [1983 c.338 §56; 1989 c.723 §4]

801.331 "Low-speed vehicle." "Low-speed vehicle" means a four wheeled motor vehicle with a top speed of more than 20 miles per hour but not more than 25 miles per hour. [2001 c.293 §5]

801.332 [1993 c.696 §2; repealed by 2003 c.655 §143]

801.333 "Manufactured structure." "Manufactured structure" has the meaning given that term in ORS 446.561. [1993 c.696 §3; 2003 c.655 §89]

801.335 "Manufacturer." "Manufacturer" means any person engaged in the manufacture of new vehicles as a regular business. [1983 c.338 §57]

801.340 [1983 c.338 §58; 1985 c.16 §16; repealed by 1993 c.696 §19]

801.341 "Medium-speed electric vehicle." "Medium-speed electric vehicle" means an electric motor vehicle with four wheels that is equipped with a roll cage or a crushproof body design, can attain a maximum speed of 35 miles per hour on a paved, level surface, is fully enclosed and has at least one door for entry. [2009 c.865 §12]

801.345 "Moped." "Moped" means a vehicle, including any bicycle equipped with a power source, other than an electric assisted bicycle as defined in ORS 801.258 or a motor assisted scooter as defined in ORS 801.348, that complies with all of the following:

(1) It is designed to be operated on the ground upon wheels.

(2) It has a seat or saddle for use of the rider.

(3) It is designed to travel with not more than three wheels in contact with the ground.

(4) It is equipped with an independent power source that:

(a) Is capable of propelling the vehicle, unassisted, at a speed of not more than 30 miles per hour on a level road surface; and

(b) If the power source is a combustion engine, has a piston or rotor displacement of 35.01 to 50 cubic centimeters regardless of the number of chambers in the power source.

(5) It is equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the system is engaged. [1983 c.338 §59; 1985 c.16 §19; 1997 c.400 §5; 2001 c.749 §25]

801.348 "Motor assisted scooter." "Motor assisted scooter" means a vehicle that:

(1) Is designed to be operated on the ground with not more than four wheels;

(2) Has a foot support or seat for the operator's use;

(3) Can be propelled by motor or human propulsion; and

(4) Is equipped with a power source that is incapable of propelling the vehicle at a speed of greater than 24 miles per hour on level ground and:

(a) If the power source is a combustion engine, has a piston or rotor displacement of 35 cubic centimeters or less regardless of the number of chambers in the power source; or

(b) If the power source is electric, has a power output of not more than 1,000 watts. [2001 c.749 §2; 2018 c.3 §1]

801.350 "Motor home." "Motor home" means a motor vehicle that:

(1) Is reconstructed, permanently altered or originally designed to provide facilities for human habitation; or

(2) Has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle. [1983 c.338 §60]

801.355 "Motor truck." "Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers. [1983 c.338 §61]

801.360 "Motor vehicle." "Motor vehicle" means a vehicle that is self-propelled or designed for self-propulsion. [1983 c.338 §62]

801.365 "Motorcycle." "Motorcycle" means any self-propelled vehicle other than a moped or farm tractor that:

(1) Has a seat or saddle for use of the rider;

(2) Is designed to be operated on the ground upon wheels; and

(3) Is designed to travel with not more than three wheels in contact with the ground. [1983 c.338 §63]

801.366 "Motorcycle helmet." "Motorcycle helmet" means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell and a chin-strap type retention system with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation. [1995 c.492 §2]

801.368 "Narrow residential roadway." "Narrow residential roadway" means a two-way roadway that is:

(1) Located in a residence district; and

(2) Not more than 18 feet wide at any point between two intersections or between an intersection and the end of the roadway. [2007 c.367 §2]

801.370 "Operation." "Operation" means any operation, towing, pushing, movement or otherwise propelling. [1983 c.338 §66]

801.375 "Owner." "Owner" when referring to the owner of a vehicle means:

(1) The person in whose name title to a vehicle is issued, and who is entitled to possession and use of the vehicle.

(2) If the title and right to possession and use for a vehicle are in different persons:

(a) The person, other than a security interest holder, who is entitled to the possession and use of the vehicle under a security agreement.

(b) The lessor or lessee of a vehicle, as designated by the lessor on the application for title, if the lessee is entitled to possession and use of the vehicle under a lease agreement. [1983 c.338 §67; 1991 c.551 §1; 1993 c.233 §7]

801.377 "Ownership record." "Ownership record" means:

(1) A primary ownership record; or

(2) A transitional ownership record. [1989 c.927 §2; 1993 c.233 §8]

801.380 "Park" or "parking." "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers. [1983 c.338 §68]

801.385 "Pedestrian." "Pedestrian" means any person afoot or confined in a wheelchair. [1983 c.338 §69]

801.387 "Person with a disability." "Person with a disability" means:

(1) A person who has severely limited mobility because of paralysis or the loss of use of some or all of the person's legs or arms;

(2) A person who is affected by loss of vision or substantial loss of visual acuity or visual field beyond correction; or

(3) A person who has any other disability that prevents the person from walking without the use of an assistive device or that causes the person to be unable to walk more than 200 feet, including but not necessarily limited to:

(a) Chronic heart condition;

(b) Emphysema;

(c) Arthritis;

(d) Rheumatism; or

(e) Ulcerative colitis or related chronic bowel disorder. [Formerly 801.235]

801.390 "Pole trailer." "Pole trailer" means a trailer attached or secured to the towing vehicle and ordinarily used for transporting long or irregular loads capable generally of sustaining themselves as beams between the towing vehicle and the trailer. The definition in this section is based on design features and, except as otherwise provided in this section, does not prohibit a pole trailer from fitting into another category of trailer based on use. [1983 c.338 §70]

801.395 "Police officer." "Police officer" includes a member of the Oregon State Police, a sheriff, a deputy sheriff, a city police officer, an authorized tribal police officer as defined in ORS 181A.680, a police officer commissioned by a university under ORS 352.121 or 353.125, a Port of Portland peace officer, a reserve officer as defined in ORS 133.005 or a law enforcement officer employed by a service district established under ORS 451.410 to 451.610 for the purpose of law enforcement services. [1983 c.338 §71; 2007 c.558 §1; 2009 c.299 §4; 2011 c.506 §47; 2011 c.641 §3; 2011 c.644 §§32,55; 2013 c.180 §§52,53; 2015 c.174 §23]

801.397 "Prefabricated structure." "Prefabricated structure" has the meaning given that term in ORS 455.010. [1993 c.696 §4; 2003 c.655 §90]

801.400 "Premises open to the public." "Premises open to the public" includes any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises. [1983 c.338 §72]

801.402 "Primary ownership record." "Primary ownership record" means:

(1) The manufacturer's certificate of origin or equivalent record as determined by the Department of Transportation by rule;

(2) The current title issued for the vehicle by the State of Oregon or another jurisdiction; or

(3) Any other record determined by the department by rule to be a primary ownership record. [1989 c.927 §3; 1993 c.233 §9]

801.403 [2001 c.522 §2; renumbered 801.406 in 2007]

801.404 "Racing activity vehicle." "Racing activity vehicle" means a motor vehicle that:

(1) Is primarily used for racing on a race track and that has:

(a) A bodiless tubular steel chassis that forms the main structural component of the vehicle;

(b) High side rails;

(c) Integral front and rear rollover tubes;

(d) A suspension with both front and rear double unequal length wishbones and inboard, pushrod operated dampers; and

(e) A product identification number instead of a vehicle identification number; and

(2) Is not a replica or an assembled vehicle. [2007 c.693 §2]

801.405 [1983 c.338 §75; 1985 c.402 §4; renumbered 801.408 in 2007]

801.406 "Rail fixed guideway public transportation system." "Rail fixed guideway public transportation system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley, streetcar or automated guideway used primarily for carrying passengers. [Formerly 801.403; 2017 c.46 §1]

801.407 [1993 c.696 §5; renumbered 801.409 in 2007]

801.408 "Reconstructed vehicle." "Reconstructed vehicle" means either:

(1) A vehicle that:

(a) Has a body that resembles and primarily is a particular year model or make of vehicle;

(b) Is not a vehicle rebuilt by a manufacturer;

(c) Is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(d) Is not a replica; or

(2) A motor truck that has been rebuilt using a component kit if the manufacturer of the kit assigns a vehicle identification number and provides a manufacturer's certificate of origin for the kit. [Formerly 801.405]

801.409 "Recreational vehicle." "Recreational vehicle" has the meaning given that term in ORS 174.101. [Formerly 801.407; 2019 c.422 §40]

801.410 "Registration" or "register." "Registration" or "register" means, when used in reference to vehicles, the recording of a vehicle as authorized for use within a jurisdiction and includes any documentation or devices issued as evidence of that authorization. This state registers vehicles as provided under ORS 803.350. [1983 c.338 §76]

801.415 "Registration plate." "Registration plate" means a plate issued by a jurisdiction as evidence of vehicle registration. This state issues registration plates under ORS 803.520. [1983 c.338 §78; 1985 c.16 §22]

801.420 "Registration weight." "Registration weight" means the combined weight or the loaded weight required to be declared and established as the maximum combined weight or loaded weight at which certain vehicles will be operated on the highway. Vehicles for which registration weights must be declared and established and the procedures for establishing registration weights are described under ORS 803.430. [1983 c.338 §77; 1985 c.16 §21; 1989 c.723 §5; 1991 c.284 §7; 2007 c.50 §1]

801.425 "Replica." "Replica," when used to refer to vehicles, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer. [1985 c.402 §2]

801.430 "Residence district." "Residence district" means territory not comprising a business district that is contiguous to a highway that:

(1) Has access to property occupied primarily by multifamily dwellings; or

(2) Has an average of 150 feet or less between accesses or approaches to:

(a) Dwellings, churches, public parks within cities or other residential service facilities; or

(b) Dwellings and buildings used for business. [1983 c.338 §79; 1997 c.404 §4]

801.435 "Revoked." "Revoked" with reference to driving privileges, vehicle registration or vehicle title means the termination thereof with new driving privileges or vehicle registration or vehicle title obtainable only as permitted by law. [1983 c.338 §80]

801.440 "Right of way." "Right of way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. [1983 c.338 §81]

801.445 "Road authority." "Road authority" means the body authorized to exercise authority over a road, highway, street or alley under ORS 810.010. [1983 c.338 §82]

801.447 "Road machinery." "Road machinery" means machinery used to maintain a highway or alley and includes, but is not limited to, a backhoe, chip spreader, excavator, forklift, front-end loader, mower, road grader, snowblower and utility tractor. [2009 c.91 §2]

801.450 "Roadway." "Roadway" means the portion of a highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term "roadway" shall refer to any such roadway separately, but not to all such roadways collectively. [1983 c.338 §83]

801.451 "Roundabout." "Roundabout" means an intersection characterized by a circulatory roadway, channelized approaches and yield control of entering traffic. A roundabout encompasses the area bounded by the outermost curb line or, if there is no curb, the edge of the pavement, and includes crosswalks on any entering or exiting roadway. [2001 c.464 §2]

801.453 [1987 c.887 §2; repealed by 2003 c.819 §19]

801.454 "Salvage title certificate." "Salvage title certificate" means a document issued by this state under the provisions of ORS 803.140 as evidence of vehicle ownership. Unless the context clearly requires otherwise, a salvage title certificate is not a "certificate of title" for purposes of the Oregon Vehicle Code or the rules of the Department of Transportation. [1991 c.873 §24]

801.455 "School activity vehicle." "School activity vehicle" means a vehicle, other than a school bus, that is used to transport students to or from authorized school activities and that is not described by any of the following:

(1) A vehicle subject to ORS 825.100 or a vehicle under regulation of the United States Department of Transportation.

(2) A vehicle, commonly known as a private passenger car or private passenger van, that is used by the owner of the vehicle or a relative of the owner of the vehicle for personal transportation of students to or from school activities and is not used for compensation except for the sharing of expenses in a ridesharing arrangement or reimbursement of mileage.

(3) A vehicle that is exempted from regulation as a school activity vehicle under ORS 820.150.

(4) A transit bus, as defined in ORS 811.167. [1985 c.420 §3; 1995 c.733 §80; 2015 c.138 §16; 2018 c.62 §4]

801.460 "School bus." "School bus" means a motor vehicle that is described by any of the following:

(1) A vehicle that is marked with or displays the words "school bus."

(2) A vehicle that is used to transport students to or from school and may be used to transport students to or from authorized school activities or functions and that is not a vehicle described by any of the following:

(a) A vehicle subject to regulation under ORS chapter 825.

(b) A vehicle regulated by a city under ORS 221.420.

(c) A vehicle, commonly known as a private passenger car or private passenger van, that is used by the owner of the vehicle or a relative of the owner of the vehicle for personal transportation of students to or from school or school activities and is not used for compensation except for the sharing of expenses in a ridesharing arrangement or reimbursement of mileage.

(d) A vehicle that is exempted from regulation as a school bus under ORS 820.150. [1983 c.338 §84; 1985 c.16 §23; 1985 c.420 §1]

801.462 "School zone." (1) "School zone" means both of the following:

(a) A specific segment of highway that is adjacent to school grounds and that is marked by signs described in subsection (2) of this section.

(b) A crosswalk that is not adjacent to school grounds and that is marked by signs described in subsection (2) of this section.

(2) Signs marking a school zone may include any words, symbols or combination of words and symbols that gives notice of the presence of the school zone.

(3) As used in this section, "school" means a public or private educational institution for one or more levels kindergarten through grade 12 or a publicly funded early childhood education program located in a building currently or previously owned by a school district as defined in ORS 330.005. [2003 c.397 §2; 2013 c.212 §1]

801.465 "Security interest." "Security interest" means an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obli-

gation as more particularly defined by ORS 71.2010 (2)(ii). [1983 c.338 §85; 1985 c.16 §24; 2009 c.181 §109]

801.470 "Self-supporting trailer." "Self-supporting trailer" means a trailer, other than a pole trailer, designed so that no part of the weight of the trailer or the weight of any load on the trailer rests upon the towing vehicle. The definition in this section is based on design and, except as otherwise provided in this section, does not prohibit a self-supporting trailer from fitting into another category of trailer based on use. [1983 c.338 §86]

801.475 "Semitrailer." "Semitrailer" means a trailer designed so that part of the weight of the trailer and part of the weight of any load on the trailer rests upon or is carried by another vehicle and coupled to another vehicle by a fifth wheel hitch. The definition in this section is based on design and, except as otherwise provided in this section, does not prohibit a semitrailer from fitting into another category of trailer based on use. [1983 c.338 §87]

801.477 [1991 c.185 §7; 1995 c.733 §81; 2003 c.819 §14; 2005 c.649 §22; 2007 c.122 §7; 2009 c.482 §2; 2011 c.355 §26; repealed by 2013 c.237 §12]

801.480 "Shoulder." "Shoulder" means the portion of a highway, whether paved or unpaved, contiguous to the roadway that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses. [1983 c.338 §88]

801.485 "Sidewalk." "Sidewalk" means the area determined as follows:

(1) On the side of a highway which has a shoulder, a sidewalk is that portion of the highway between the outside lateral line of the shoulder and the adjacent property line capable of being used by a pedestrian.

(2) On the side of a highway which has no shoulder, a sidewalk is that portion of the highway between the lateral line of the roadway and the adjacent property line capable of being used by a pedestrian. [1983 c.338 §89]

801.490 "Snowmobile." "Snowmobile" means a self-propelled vehicle that:

(1) Is capable of traveling over snow or ice;

(2) Uses as its means of propulsion an endless belt tread or cleats or any combination of tread and cleats or similar means of contact with the surface upon which it is operated;

(3) Is steered wholly or in part by skis or sled-type runners; and

(4) Is not registered in this state as a vehicle other than a snowmobile. [1983 c.338 §90]

801.495 "Special mobile equipment." "Special mobile equipment" means a vehicle that is not designed primarily to transport persons or property, that is operated on a highway only incidentally and that is used primarily on a farm, for timber production and harvest, for construction work or for lawn and grounds care. [2012 c.12 §21]

801.500 "Special use trailer." (1) "Special use trailer" means a trailer described under any of the following:

(a) A trailer that is eight and one-half feet or less in width and of any length and that is used for commercial or business purposes.

(b) A trailer that is used temporarily on a construction site for office purposes only.

(c) A mobile modular unit.

(2) "Special use trailer" does not include any travel trailer. [1985 c.16 §26; 1993 c.696 §7; 2003 c.655 §90a]

801.505 "Stand" or "standing." "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. [1983 c.338 §91]

801.507 "Stinger-steered." "Stinger-steered" in relation to a combination of vehicles means that the coupling device on the power unit is located back of the tread of the tires of the last axle. [2001 c.574 §2]

801.510 "Stop." "Stop" means the following:

(1) When required, it means the complete cessation from movement.

(2) When prohibited, it means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic control device. [1983 c.338 §92]

801.513 "Street rod." "Street rod" means a motor vehicle that:

(1) Was manufactured prior to 1949 or was manufactured to resemble a motor vehicle manufactured prior to 1949;

(2) May be equipped with a drive train, suspension system or brake system that is different from the drive train, suspension system or brake system originally installed on the vehicle;

(3) May have alterations to the dimensions of the original body of the vehicle; and

(4) Is not a motorcycle or an assembled vehicle. [1997 c.402 §2]

801.515 "Suspend." "Suspend," with reference to identification cards, driving privileges or vehicle registration, means the temporary withdrawal of the identification card, driving privileges or registration. [1983 c.338 §93; 1993 c.393 §1a]

801.520 "Tandem axles." "Tandem axles" means any two or more consecutive axles that have centers more than 40 inches but not more than 96 inches apart and:

(1) Are individually attached to or articulated from, or both, a common attachment to the vehicle; or

(2) Have a connecting mechanism designed to equalize the load between axles. [1983 c.338 §94; 1985 c.172 §3]

801.522 "Tank vehicle." "Tank vehicle" means a commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank or tanks having an individual rate capacity of more than 119 gallons and an aggregate rate capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. "Tank vehicle" does not include a commercial motor vehicle transporting an empty storage container tank that has a rated capacity of 1,000 gallons or more and that is temporarily attached to a flatbed trailer. [1989 c.636 §7; 2013 c.237 §49; 2017 c.190 §10]

801.524 "Throughway." "Throughway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the road authority having jurisdiction over the highway, street or roadway. [Formerly 801.535]

801.525 "Tire." "Tire" means the band of material used on the circumference of a wheel, on the outer face of a track or on a runner of a sled, which forms the tread that comes in contact with the surface of the road. If no band is used it means the tread or runner of a sled. [1983 c.338 §96]

801.526 "Title." "Title" means an ownership interest in a vehicle that is evidenced by a record of the Department of Transportation or of some other jurisdiction. The record may be in the form of a certificate of title or it may be in another form, including but not necessarily limited to electronic or machine-readable form. Oregon issues titles under ORS 803.045. Titles for snowmobiles are issued as provided under ORS 821.060. Salvage titles are issued as provided in ORS 803.140. [1993 c.233 §2; 1995 c.774 §7; 1999 c.977 §15; 2003 c.655 §91]

801.527 "Totaled vehicle"; "totaled." "Totaled vehicle" or "totaled" means:

(1) A vehicle that is declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to.

(2) A vehicle that is stolen, if it is not recovered within 30 days of the date that it is stolen and if the loss is not covered by an insurer.

(3) A vehicle that has sustained damage that is not covered by an insurer and that is such that the estimated cost to repair the vehicle is equal to at least 80 percent of the retail market value of the vehicle prior to the damage. For purposes of this subsection, "retail market value" shall be as reflected in publications relied upon by financial institutions doing business in this state. [1991 c.820 §2]

801.529 "Tow dolly." "Tow dolly" means an auxiliary axle assembly equipped with a tow bar and used to tow a motor vehicle behind another motor vehicle. [1991 c.284 §3]

801.530 "Tow vehicle." "Tow vehicle" means a motor vehicle that is:

(1) Altered or designed for, equipped for and used in the business of towing vehicles; and

(2) Used to tow vehicles by means of a crane, hoist, tow bar, tow line or dolly or otherwise used to render assistance to other vehicles. [1983 c.338 §97; 1985 c.71 §2]

801.535 [1983 c.338 §98; renumbered 801.524 in 1991]

801.540 "Traffic control device." "Traffic control device" means:

(1) Any sign, signal, marking or device placed, operated or erected by authority under ORS 810.210 for the purpose of guiding, directing, warning or regulating traffic.

(2) Any device that remotely controls by electrical, electronic, sound or light signal the operation of any device identified in subsection (1) of this section and installed or operated under authority of ORS 810.210.

(3) Any stop sign that complies with specifications adopted under ORS 810.200 that is held or erected by a member of a highway maintenance or construction crew working in the highway. [1983 c.338 §99; 1993 c.203 §1; 1993 c.522 §1]

801.545 "Traffic crime." "Traffic crime" means any traffic offense that is punishable by a jail sentence. [1983 c.338 §100]

801.550 [1983 c.338 §102; 1999 c.1051 §83; renumbered 801.557 in 1999]

801.555 "Traffic offense." "Traffic offense" means any of the following offenses:

(1) Any violation of a traffic ordinance of a city, municipal or quasi-municipal cor-

poration, except ordinances governing parking of vehicles.

(2) Any provision of law for which a criminal or traffic violation penalty is provided in the vehicle code. [1983 c.338 §101; 1985 c.16 §27; 1999 c.1051 §84; 2015 c.138 §17]

801.557 "Traffic violation." "Traffic violation" means a traffic offense that is designated as a traffic violation in the statute defining the offense, or any other offense defined in the Oregon Vehicle Code that is punishable by a fine but that is not punishable by a term of imprisonment. Penalties for traffic violations are as provided for violations generally in ORS chapter 153. [Formerly 801.550; 2011 c.597 §95a]

801.560 "Trailer." "Trailer" means every vehicle without motive power designed to be drawn by another vehicle. Trailer includes, but is not limited to, the following types of trailers:

(1) Balance trailers.

(2) Bus trailers.

(3) Commercial bus trailers.

(4) Farm trailers.

(5) Pole trailers.

(6) Semitrailers.

(7) Travel trailers.

(8) Truck trailers.

(9) Self-supporting trailers.

(10) Special use trailers. [1983 c.338 §103; 1985 c.16 §28; 2003 c.655 §92]

801.562 "Transitional ownership record." "Transitional ownership record" means a record containing all of the following:

(1) The date of sale or if no sale is involved, the date the contract or security interest being perfected was signed.

(2) The name of each owner of the vehicle.

(3) The name and address of each security interest holder.

(4) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest.

(5) The vehicle identification number.

(6) The name of the security interest holder or person who submits the transitional ownership record for the security interest holder. [1989 c.927 §4; 1993 c.233 §10]

801.565 "Travel trailer." "Travel trailer" means:

(1) A recreational vehicle without motive power that is eight and one-half feet or less in width and is not being used for commercial or business purposes; and

(2) A prefabricated structure that is eight and one-half feet or less in width and that is not being used for commercial or business purposes. [1983 c.338 §104; 1993 c.696 §8; 2003 c.655 §93]

801.570 [1983 c.338 §105; repealed by 2001 c.522 §12]

801.575 "Truck tractor." "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn. [1983 c.338 §106]

801.580 "Truck trailer." "Truck trailer" means any trailer designed and used primarily for carrying loads other than passengers whether designed as a balance trailer, pole trailer, semitrailer or self-supporting trailer. [1983 c.338 §107]

801.585 "Unloaded weight." "Unloaded weight" means the weight of a vehicle when the vehicle is fully equipped exclusive of load. [1983 c.338 §108; 1985 c.172 §4]

801.590 "Vehicle." "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means. "Vehicle" does not include a manufactured structure. [1983 c.338 §109; 2003 c.655 §94]

801.592 "Vehicle appraiser." "Vehicle appraiser" means an individual who has been issued a vehicle appraiser certificate under ORS 819.480 and who, for consideration, issues opinions as to the value of vehicles. [2007 c.630 §3]

801.595 "Vehicle code." "Vehicle code" means the Oregon Vehicle Code. [1983 c.338 §110]

801.600 "Vehicle identification number." "Vehicle identification number" means a distinguishing number assigned and affixed to a vehicle or vehicle component, such as an engine or transmission or other severable portion of a vehicle, by the manufacturer or under ORS 819.400 for the purpose of providing identification for the vehicle or vehicle component. [1983 c.338 §111]

801.605 "Vehicle of special interest." "Vehicle of special interest" means any American or foreign made vehicle that is maintained as a collector's item and that:

(1) Is a street rod under ORS 801.513;

(2) Is a high-mobility multipurpose wheeled vehicle and originally manufactured for military use; or

(3) Complies with all of the following:

(a) The vehicle must be:

(A) At least 25 years old as dated from any current year; or

(B) Sanctioned as a vehicle of special interest by an established organization that provides for recognition of vehicles of special interest.

(b) If the vehicle is a reconstructed vehicle, the Department of Transportation must determine that the vehicle has been reconstructed with substantially original parts and that the vehicle otherwise complies with this section. [1983 c.338 §112; 1985 c.16 §29; 1997 c.402 §3; 2003 c.122 §2; 2017 c.196 §1]

801.608 "Vulnerable user of a public way." "Vulnerable user of a public way" means a pedestrian, a highway worker, a person riding an animal or a person operating, or riding on, any of the following on a public way, crosswalk or shoulder of the highway:

(1) A farm tractor or implement of husbandry;

(2) A skateboard;

(3) Roller skates;

(4) In-line skates;

(5) A scooter;

(6) A bicycle;

(7) A moped; or

(8) A motorcycle. [2007 c.784 §2; 2009 c.301 §1; 2019 c.349 §1]

801.610 "Worker transport bus." "Worker transport bus" means a vehicle that is described under ORS 820.010 that has a seating capacity of 12 or more passengers. [1983 c.338 §113]

Chapter 802

2019 EDITION

Administrative Provisions

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GENERAL PROVISIONS

802.010 Duties of Department of Transportation regarding motor vehicles and drivers. (1) The Department of Transportation shall perform all of the duties, functions and powers with respect to the following:

(a) The administration of the laws relating to the motor vehicle fuel license tax, aircraft fuel license tax and use fuel license tax including ORS chapter 319.

(b) The administration of the laws relating to motor vehicle registration and titling and the issuance of certificates to vehicle dealers and dismantlers including but not limited to the administration of the vehicle code.

(c) The administration of the laws relating to driving privileges granted under licenses and permits and under the vehicle code.

(d) The administration of the laws relating to operation of vehicles on highways and of vehicle size, weight and use limits under the vehicle code.

(e) The administration of ORS 820.130 and 820.140.

(f) The administration of the provisions relating to proof of compliance with financial responsibility requirements and future responsibility filings.

(2) The Director of Transportation shall act as a reciprocity officer for the purposes of ORS 802.500 and 802.520.

(3) The director shall have the authority to execute or make such arrangements, agreements or declarations to carry out the provisions of ORS 802.500 and 802.520. The director shall receive no additional compensation for service performed under this subsection but shall be allowed actual and necessary expenses incurred in the performance of the duties to be paid from the account of the department. [1983 c.338 §114; 1985 c.16 §30; 1985 c.668 §1; 1991 c.407 §20; 1993 c.741 §71; 1995 c.733 §82; 2001 c.104 §297; 2005 c.654 §37; 2019 c.312 §8]

802.012 Rules for acceptance of information submitted other than on paper; effect of submission. (1) Notwithstanding other provisions of the Oregon Vehicle Code relating to certifications, signatures, forms or similar requirements, the Department of Transportation may adopt rules for acceptance and verification by telephone or electronic means of information customarily provided on paper forms. Rules shall address:

(a) The use of credit card, debit card personal identification numbers or other identification numbers as a means of identification;

(b) The acceptance of information and statements given orally, over the telephone or mechanically by electronic data entry; and

(c) The use of mechanically produced equivalents or other unique identifiers in lieu of handwritten signatures as a means of obtaining certification of information and statements that are required to be submitted and certified.

(2) Whenever a person submits information to the department in compliance with a requirement of statute or rule, the submission shall constitute a certification as to the truth and accuracy of the information. This subsection applies whether the information is submitted in the form of a document or in some other form and whether or not the person signs what is submitted. [1993 c.751 §§8,8a]

802.020 Administrative facilities for enforcement of motor vehicle laws. The Department of Transportation:

(1) Shall purchase the necessary stationery, record books, registration plates and postage, provide for the printing and all other necessary and incidental expenses, employ the necessary clerical assistance, and lease such real estate and buildings as the department deems necessary to carry out fully the objects and purposes of the motor vehicle laws which it is required to administer.

(2) Is authorized and directed to pay any claims therefor in the manner provided by law out of the money received under the provisions of the vehicle code.

(3) May share space in any leased building with any other state officer, department, board or commission, for the conduct of the business of the state.

(4) Subject to approval under this subsection, may acquire by purchase, agreement or donation, real property or any right or interest therein for office buildings and necessary appurtenant facilities. Before the department may exercise any authority under this subsection the department must have the approval of:

(a) The committee of ways and means established under ORS 171.555 if the Legislative Assembly is in session.

(b) The Emergency Board created under ORS 291.324 if the Legislative Assembly is not in session. [1983 c.338 §115]

802.030 [1983 c.338 §116; 1985 c.16 §31; 1985 c.171 §3; 1985 c.416 §6; 1987 c.146 §1; repealed by 1997 c.583 §9]

802.031 Designation of dealers and others as agents of department. (1) Nothing in ORS 802.600 prohibits the Department of Transportation from adopting rules to:

(a) Authorize persons to act as agents for the department for the purpose of issuing winter recreation parking permits.

(b) Designate vehicle dealers holding a valid certificate issued under ORS 822.020 or 822.040 to act as agents of the department for purposes of accepting documents and fees necessary to title and register any vehicle the vehicle dealer sells, or to perform other duties the department may authorize. Other duties may include, but need not be limited to:

(A) Issuing permits under ORS 803.600 and 803.625; and

(B) Performing vehicle identification number inspections.

(2) A vehicle dealer designated under this section shall:

(a) Transmit title and registration documents with all required fees to the department within the time specified in ORS 822.042 and in accordance with any other applicable statutes or applicable rules adopted by the department.

(b) Maintain records as determined by the department to show compliance with this section and any rules adopted by the department. [1997 c.583 §10(2); 2017 c.172 §2]

Note: 802.031 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

802.033 [2001 c.141 §1; 2005 c.375 §1; renumbered 822.043 in 2005]

802.040 Specification of certain ways of reporting. (1) The Department of Transportation shall specify the minimum contents of a report about, and the means for reporting, accidents that are required to be reported under ORS 810.460, 811.725, 811.730 and 811.735. The department shall consult with the state police and city and county law enforcement officials before approving means for accident reports required under ORS 810.460. Any means of reporting specified under this subsection shall require sufficiently detailed information to disclose, with reference to a traffic accident, the cause, conditions then existing and the persons and vehicles involved. Upon request, if the department adopts forms as one means of reporting accidents, the department shall make the forms available through police departments, sheriffs' offices and other suitable agencies or individuals.

(2) The department shall assure that any means specified under subsection (1) of this section for use in accident reports required under ORS 811.725, 811.730 and 811.735 include a way of making owners aware of the definition of a totaled vehicle and of the owner's duty under ORS 819.012.

(3) The department shall prescribe and provide suitable forms for the administration and enforcement of the financial responsibility requirements under the vehicle code or shall prescribe any other means of accomplishing the same end that the department finds convenient. [1983 c.338 §117; 1985 c.16 §32; 1991 c.820 §12; 1993 c.751 §10; 2005 c.195 §2]

802.050 Publications; fees. (1) The Department of Transportation may compile, publish and distribute a vehicle code book containing statutes administered by the department concerning vehicles and drivers, along with other related laws. The department may establish and collect a reasonable fee for books issued to groups or persons who are not employees of the department. Any fee established under this section shall not exceed the costs of the compilation, publication and distribution of the books.

(2) The department shall publish statistical information based on the analysis and tabulation of accident reports under ORS 802.220. Publication under this subsection shall be annual or at more frequent intervals.

(3) The department shall make rules it adopts concerning aiming of headlights, auxiliary lights and passing lights available to the public in an appropriate publication. [1983 c.338 §118; 1985 c.171 §4; 1993 c.741 §72; 2001 c.239 §1]

802.060 Acceptance of grants and other moneys for traffic safety programs; contracts. The Department of Transportation may:

(1) Apply for, accept and receive such grants, contributions or other moneys as may be available to this state or any of its agencies for research and other programs concerning the safe operation of motor vehicles upon the highways, including research or educational programs for the improvement of drivers, the reduction of traffic accidents and the reduction of violations of traffic laws and ordinances.

(2) Enter into such contracts or agreements, employ such personnel, and do all things necessary to receive available moneys and carry on any research or program mentioned in subsection (1) of this section, provided that the authority herein granted and the contracts, agreements and other acts authorized to be entered into or performed, shall be subject to and not in conflict with the provisions of any other applicable state statutes. [1983 c.338 §876; 1993 c.741 §73]

802.070 Department to assist schools in promoting highway safety. The Department of Transportation shall assist accredited schools and educational institutions of

this state in the promotion of highway safety and shall carry on with other activities under the laws providing for the registration of motor vehicles and motor vehicle operators and chauffeurs, other projects having for their purpose the prevention of motor vehicle accidents. [1983 c.338 §877]

802.075 Rules for accident prevention course. The Department of Transportation shall adopt rules for approval of a motor vehicle accident prevention course that will qualify a person for the reduction in premium provided by ORS 742.490 to 742.494. The rules may include requirements for the contents of a course and qualifications of an organization offering a course. [1989 c.379 §8]

802.080 [1983 c.338 §878; 1987 c.55 §1; renumbered 366.157 in 1991]

802.085 [1993 c.713 §41; repealed by 2015 c.8 §11]

802.087 Rules for assisting offenders in obtaining driver license or identification card. The Department of Transportation and the Department of Corrections jointly shall adopt rules and enter into interagency agreements necessary to assist offenders in obtaining a driver license or identification card prior to an offender's release from a Department of Corrections institution. [2009 c.138 §2]

802.090 [1983 c.338 §870; 1985 c.16 §439; 1989 c.979 §1; 1993 c.713 §4; 1993 c.751 §11; renumbered 247.017 in 1993]

802.091 Removal of debris following motor vehicle accident. (1) The Department of Transportation shall pay reasonable costs for the removal of any vehicle, cargo or debris resulting from a motor vehicle accident if:

(a) The motor vehicle accident resulted in the death of a person 18 years of age or younger;

(b) The accident occurred on a state highway;

(c) The surviving family members would otherwise be responsible for the cost of the cleanup; and

(d) There is no insurance available.

(2) Subsection (1) of this section does not apply if:

(a) It is established by a preponderance of the evidence that the deceased was engaged in conduct that would constitute a crime; or

(b) The vehicle of the deceased was not insured under a motor vehicle liability insurance policy that complied with financial responsibility requirements under ORS 806.060. [2009 c.620 §2]

FINANCIAL ADMINISTRATION

802.100 Accounts related to driver and vehicle services; uses. The following accounts are established separate and distinct from the General Fund for the financial administration of those functions of the Department of Transportation dealing with driver and motor vehicle services in accordance with ORS 802.110:

(1) The Department of Transportation Driver and Motor Vehicle Suspense Account. The account established under this subsection is a suspense account in the State Treasury that is used to deposit moneys received by the department related to driver and motor vehicle services and to make approved payments and disbursals of funds before the department pays administrative expenses related to the provision of driver and motor vehicle services. The department shall transfer the money that is not to be used to make approved payments and disbursals from the account established under this subsection and that remains in the account at the close of business on the last day of each month to the Department of Transportation Driver and Motor Vehicle Services Administrative Account on or before the 15th day of the following month.

(2) The Department of Transportation Driver and Motor Vehicle Services Administrative Account. The account established under this subsection shall be used for the payment of administrative expenses payable before money from the account is transferred to the State Highway Fund. The department shall transfer the money that is not to be used to make payments from the account established under this subsection and that remains in the account at the close of business on the last day of each month to the State Highway Fund on or before the 15th day of the following month.

(3) The Passenger Rail Transportation Account. The account established under this subsection is a separate account in the State Treasury that shall be used to deposit moneys received from the sale of customized registration plates under ORS 805.240. Moneys in the account shall be used for passenger rail programs. Moneys shall be deposited in the account after payment of administrative expenses as provided under ORS 802.110.

(4) The Revolving Account for Emergency Cash Advances. The account established under this subsection is a separate account that shall be maintained for the payment of emergency cash advances and taking up of dishonored remittances. [1983 c.338 §132; 1985 c.16 §39; 1989 c.966 §71; 1993 c.18 §166; 1993 c.741 §74; 2001 c.104 §298; 2007 c.667 §1]

802.110 Procedures for financial administration; receipt and disposition of moneys; refunds; payments; limitations. Any procedures the Department of Transportation establishes for financial administration of those functions of the department dealing with driver and motor vehicle services and for the disposition and payment of moneys it receives from the provision of driver and motor vehicle services shall comply with all of the following:

(1) The department shall deposit all moneys it receives related to driver and motor vehicle services in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved expenses and disbursals before payment of general administrative expenses of the department related to the provision of driver and motor vehicle services. Notwithstanding this subsection, the department may return a bank check or money order when received in incorrect or incomplete form or when not accompanied by the proper application.

(2) The department shall pay the following approved expenses and disbursals from the Department of Transportation Driver and Motor Vehicle Suspense Account before payment of the general administrative expenses of the department related to driver and motor vehicle services:

(a) Refunds authorized by any statute administered by the department when such refunds are approved by the department.

(b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carrying out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and Facility Account and to the Marine Navigation Improvement Fund by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

(c) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040, 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The moneys deposited in the Student Driver Training Fund under this paragraph are continuously appropriated to the department for the following purposes:

(A) To the extent of not more than 10 percent of the amount transferred into the Student Driver Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805, 336.810 (2) and 336.815.

(B) The remaining moneys, for reimbursing school districts and commercial driver training schools as provided under ORS 336.805.

(d) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treasurer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

(e) After deduction of expenses for the administration of the issuance of customized registration plates under ORS 805.240, the department shall place moneys received from the sale of customized registration plates in the Passenger Rail Transportation Account. The moneys placed in the account are continuously appropriated to the department and shall be used for the payment of expenses incurred in administering passenger rail programs.

(f) After deduction of expenses of collection, transfer and administration, the department shall pay moneys from any registration fees established by the governing bodies of counties or a district, as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts. The department shall make the payments on at least a monthly basis unless another basis is established by the intergovernmental agreements required by ORS 801.041 and 801.042 between the department and the governing bodies of a county or a district.

(g) After deducting the expenses of the department in collecting and transferring the moneys, the department shall make disbursals and payments of moneys collected for or dedicated to any other purpose or fund except the State Highway Fund, including but not limited to, payments to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

(3) The department shall refund from the Department of Transportation Driver and Motor Vehicle Suspense Account any excess or erroneous payment to a person who made the payment or to the person's legal representative when the department determines that money has been received by it in excess of the amount legally due and payable or that it has received money in which it has no legal interest. Refunds payable under this subsection are continuously appropriated for such purposes in the manner for payment of refunds under this section. If the department determines that a refund is due, the department may refund the amount of excess or erroneous payment without a claim being filed. Except as provided in ORS 319.290,

319.375, 319.820 and 319.831, any claim for a refund from the department must be filed within 12 months after the date payment is received by the department.

(4) After payment of those expenses and disbursals approved for payment before general administrative expenses related to the provision of driver and motor vehicle services, the department shall pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Account its general administrative expenses incurred in the administration of any law related to driver and motor vehicle services that the department is charged with administering and any other expenses the department is permitted by law to pay from moneys held by the department before transfer of the moneys to the State Highway Fund. The following limitations apply to payments of administrative expenses under this subsection:

(a) The department shall make payment of the expenses of administering the issuance of winter recreation parking permits under ORS 811.595 from those moneys received from issuing the permits.

(b) The department shall pay its expenses for administering the registration and titling of snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those sections. The department shall also pay its expenses for the administration of the snowmobile driver permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

(c) The department shall pay its expenses for determining the amount of money to be withheld under ORS 802.120 from the fees collected for administering the registration and titling of snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary but may not exceed $10,000 during each biennium.

(d) The department shall retain not more than $15,000 in any biennium for the expenses of collecting and transferring moneys to the Student Driver Training Fund under this section and for the administration of ORS 336.810 (3).

(5) Except as otherwise provided in this subsection, the department shall transfer to the State Highway Fund the moneys not used for payment of the general administrative expenses or for approved expenses and disbursals before payment of general administrative expenses. The following apply to this subsection:

(a) If the Director of Transportation certifies the amount of principal or interest of highway bonds due on any particular date, the department may make available for the payment of such interest or principal any sums that may be necessary to the extent of moneys on hand available for the State Highway Fund regardless of the dates otherwise specified under this section.

(b) Notwithstanding paragraph (a) of this subsection, the department may not make available for purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds issued under ORS 367.615.

(6) Notwithstanding any other provision of this section, the following moneys shall be transferred to the State Highway Fund at the times described:

(a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses of the department shall be transferred before July 31 of each year.

(b) Moneys received from the registration of snowmobiles that are not to be used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(c) Moneys received from the issuance of winter recreation parking permits that are not used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(7) The following moneys transferred to the State Highway Fund under this section may be used only for the purposes described as follows:

(a) Moneys collected from the issuance of winter recreation parking permits, and the interest on such moneys, shall be used to enforce the requirement for winter recreation parking permits and to remove snow from winter recreation parking locations designated under ORS 810.170. Any remaining moneys shall, upon approval by the Winter Recreation Advisory Committee:

(A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170 and snowmobile facilities that are parking lots developed with moneys as provided under this section;

(B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

(C) Be carried over to be used in subsequent years for the purposes and in the manner described in this paragraph.

(b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for development and maintenance of multiuse trails within urban growth boundaries or for the development and maintenance of snowmobile facilities, including the acquisition of land therefor by any means

other than the exercise of eminent domain. Moneys received under ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and 821.240 to 821.290.

(8) The department shall maintain the Revolving Account for Emergency Cash Advances separate from other moneys described in this section. From the account, the department may pay for the taking up of dishonored remittances returned by banks or the State Treasurer and for emergency cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund. The department shall at all times be accountable for the amount of the account, either in cash or unreimbursed items and advances. The moneys in the account are continuously appropriated for the purposes of this subsection. The amount of moneys in the account under this subsection may not exceed $40,000 from moneys received by the department in the performance of its driver and motor vehicle services functions and moneys otherwise appropriated for purposes of this subsection. The account under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is authorized to honor and pay all properly signed and indorsed checks or warrants drawn against the account. [1983 c.338 §133; 1985 c.16 §40; 1985 c.152 §5; 1985 c.280 §1; 1985 c.459 §22; 1985 c.551 §14; 1987 c.158 §161; 1987 c.261 §1; 1987 c.791 §4; 1989 c.101 §3; 1989 c.168 §1; 1989 c.491 §70; 1989 c.864 §6; 1991 c.67 §§208,209; 1991 c.453 §§4,5; 1991 c.709 §4; 1993 c.741 §75; 1995 c.79 §368; 1995 c.774 §8; 1999 c.328 §15; 1999 c.935 §31; 1999 c.977 §14; 1999 c.1010 §3; 2001 c.668 §7; 2001 c.820 §6; 2001 c.827 §8; 2003 c.655 §95; 2007 c.667 §2; 2009 c.394 §6; 2009 c.885 §48; 2011 c.597 §144; 2013 c.1 §95; 2017 c.750 §88]

802.112 Surcharge for certain transactions; rules. The Department of Transportation may impose a surcharge on any fee the department is authorized to collect if the fee is imposed for a transaction that can be accomplished by a customer of the department in more than one way and the customer chooses the more expensive way. A surcharge imposed under this section may be added to the amount tendered by the customer to offset fees charged to the department for acceptance and use of a credit card. A surcharge may not be imposed under this section until the department adopts rules specifying transactions for which the surcharge will be imposed. [1993 c.751 §9; 2019 c.312 §35]

802.120 Snowmobile fuel tax moneys; amount; disposition. (1) Motor vehicle fuel used and purchased for providing the motive power for snowmobiles shall be considered a nonhighway use of fuel.

(2) The Director of Transportation shall withhold, from taxes collected under ORS chapter 319 during June of each year, amounts the director determines to have been paid as tax under ORS chapter 319 on fuel used in snowmobiles during the preceding 12-month period ending June 30 and that were not refunded.

(3) Moneys withheld by the director under this section are subject to disposition as provided in ORS 802.110.

(4) The director shall establish a reasonable manner to determine the amount of money to be withheld under this section from the tax on motor vehicle fuels under ORS chapter 319. [1983 c.338 §129; 1987 c.88 §1; 2001 c.827 §9; 2005 c.612 §6]

802.125 Transfer of all-terrain vehicle fuel taxes or special use fuel license fees. (1) The Department of Transportation shall transfer to the State Parks and Recreation Department amounts described in subsection (2) of this section that are paid to the Department of Transportation and determined by the department to be paid with respect to fuel used by Class I, Class II, Class III and Class IV all-terrain vehicles in off-highway operation.

(2) The amounts referred to in subsection (1) of this section are:

(a) Amounts paid as motor vehicle fuel tax under ORS 319.020 and 319.530 that are not refunded; and

(b) Special use fuel license fees paid under ORS 319.535.

(3) The Department of Transportation shall determine the amount of moneys to be transferred under this section at quarterly intervals. [1999 c.977 §17; 2011 c.360 §12; 2014 c.13 §12]

802.130 [1985 c.459 §19; 1987 c.88 §§1,2; 1987 c.254 §1; 1987 c.587 §8; 1989 c.991 §3; 1993 c.233 §11; 1995 c.774 §9; repealed by 1999 c.977 §38]

802.140 [1985 c.459 §20; 1987 c.587 §9; 1989 c.661 §2; 1989 c.991 §4; 1997 c.229 §1; repealed by 1999 c.977 §38]

802.150 [1985 c.744 §4; 1987 c.730 §8; 1987 c.904 §1; 1987 c.905 §31; repealed by 2015 c.138 §18]

802.155 Safety Education Fund; uses. (1) There is created the Safety Education Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund.

(2) Moneys deposited in the Safety Education Fund from the Criminal Fine Account are continuously appropriated to the office of the administrator of the Transportation Safety section of the Department of Transportation to be used for safety education programs:

(a) That provide injury prevention education on traffic safety issues for each age group in the kindergarten through college ages;

(b) That have been recipients of funds under 23 U.S.C. 402 for at least three years;

(c) That are found by the Transportation Safety section to be effective, as measured by the three-year reporting cycle funded under 23 U.S.C. 402; and

(d) That operate statewide. [1991 c.709 §7; 1995 c.440 §42; 2001 c.668 §10; 2001 c.829 §9; 2003 c.14 §462; 2005 c.70 §3; 2005 c.700 §9; 2011 c.597 §145]

802.160 Use of revocation and suspension reinstatement fees. The fees collected under ORS 807.370 for the reinstatement of suspended and revoked driving privileges shall be applied by the Department of Transportation to the cost of preparing and serving notices of suspension or revocation and to the cost of administering the driver improvement program authorized under ORS 809.480. [1983 c.338 §130]

802.170 Uncollectible tender of payment; procedures. If any person pays the Department of Transportation any fee or tax with a bank check and the check is returned to the department as uncollectible, or if a person pays the department with a credit or debit card and for any reason the department does not get payment from the issuer of the card, the department may charge the person the fee for dishonored checks or other orders for the payment of money under ORS 30.701 (5). If the person does not pay the fee charged under this section, the department may do all of the following:

(1) Suspend or cancel, or refuse to issue or renew, any vehicle registration, vehicle title or vehicle permit in payment of which the check or other order for the payment of money was presented.

(2) Cancel, or refuse to issue or renew, any driver license or driver permit in payment of which the check or other order for the payment of money was presented.

(3) Authorize any department employee or police officer to seize and recover any evidence of the registration, title, license or permit suspended or canceled.

(4) If evidence of the suspended or canceled registration, title, license or permit is not recovered, refuse to conduct any further transactions with the person until the fee charged under this section is paid. [1983 c.338 §134; 1985 c.669 §10; 1991 c.702 §21; 1993 c.751 §12; 1997 c.583 §6; 1999 c.59 §234; 2018 c.76 §21]

RECORDS

802.175 Definitions for ORS 802.175 to 802.191. As used in ORS 802.175 to 802.191:

(1) "Motor vehicle record" means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.

(2) "Person" means an individual, an organization or an entity, but does not include the State of Oregon or any agency thereof.

(3) "Personal information" means the following information that identifies an individual:

(a) Driver license, driver permit or identification card number;

(b) Name;

(c) Address (excluding five-digit zip code); and

(d) Telephone number. [1997 c.678 §2; 1999 c.267 §1; 2003 c.655 §96]

802.177 Prohibition on release of personal information from motor vehicle records. Except as otherwise provided in ORS 802.179, neither the Department of Transportation nor any officer, employee or contractor of the department may knowingly disclose or otherwise make available to any person personal information about an individual that is obtained by the department in connection with a motor vehicle record. [1997 c.678 §3]

802.179 Exemptions from prohibition on release of personal information from motor vehicle records; rules. (1) The Department of Transportation, upon request or as required by law, shall disclose personal information from a motor vehicle record to a government agency for use in carrying out its governmental functions.

(2) The department shall disclose personal information from a motor vehicle record for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of any of the following federal Acts:

(a) The Automobile Information Disclosure Act.

(b) The Motor Vehicle Information and Cost Saving Act.

(c) The National Traffic and Motor Vehicle Safety Act of 1966.

(d) The Anti-Car Theft Act of 1992.

(e) The Clean Air Act.

(3)(a) If the department determines that a business is a legitimate business, the department shall disclose personal information to the business for use in the normal course of business in:

(A) Verifying the accuracy of personal information submitted to the business; or

(B) Correcting personal information submitted to the business, but only in order to:

(i) Prevent fraud;

(ii) Pursue legal remedies against the individual who submitted the personal information; or

(iii) Recover a debt from, or satisfy a security interest against, the individual.

(b) The department shall adopt rules specifying the kind of information that the department will accept as evidence that a business is a legitimate business.

(4) The department shall disclose personal information to:

(a) An attorney, a financial institution as defined in ORS chapter 706 or a collection agency registered under ORS 697.031 for use in connection with a civil, criminal, administrative or arbitration proceeding in any court, government agency or self-regulatory body. Permissible uses of personal information under this paragraph include, but are not limited to, service of process, investigation in anticipation of litigation and the execution and enforcement of judgments and orders.

(b) A process server acting as an agent for an individual for use in serving documents in connection with an existing civil, criminal, administrative or arbitration proceeding, or a judgment, in any court, government agency or self-regulatory body. Nothing in this paragraph limits the activities of a process server when acting as an agent for an attorney, collection agency or like person or for a government agency.

(5) The department shall disclose personal information other than names to a researcher for use in researching health and educational questions and providing statistical reports, as long as the personal information is not published, redisclosed or used to contact individuals. The department may disclose information under this subsection only for research sponsored by an educational institution or a health research institution.

(6) The department shall disclose personal information to an insurer, an insurance support organization or a self-insured entity in connection with claims investigation activities, antifraud activities, underwriting or rating.

(7) The department shall disclose personal information regarding ownership or other financial interests in a vehicle to a person who is required by the state or federal Constitution, a statute or an ordinance to give notice to another person concerning the vehicle. Personal information disclosed under this subsection may be used only for giving the required notice. Persons authorized to receive personal information under this subsection include, but are not limited to:

(a) Tow companies;

(b) Persons who have or are entitled to have liens on the vehicle; and

(c) Persons taking an action that could affect ownership rights to the vehicle.

(8) The department shall disclose personal information to any private security professional certified under ORS 181A.870, to be used for the purpose of determining ownership of vehicles parked in a place over which the private security professional, acting within the scope of the professional's employment, exercises control.

(9) The department shall disclose personal information to the employer of an individual who holds commercial driving privileges, or the insurer of the employer, to obtain or verify information about the individual.

(10) The department shall disclose personal information to the operator of a private toll facility for use in collecting tolls.

(11) The department may not disclose personal information for bulk distributors of surveys, marketing materials or solicitations except as provided in this subsection. The department shall implement methods and procedures to ensure:

(a) That individuals are offered an opportunity to request that personal information about themselves be disclosed to bulk distributors; and

(b) That the personal information provided by the department will be used, rented or sold solely for bulk distribution of surveys, marketing materials and solicitations.

(12) The department shall disclose personal information to a person who requests the information if the requester provides the department with written permission from the individual whose personal information is requested. The written permission from the individual must be notarized.

(13) The department shall disclose personal information to a person who is in the business of disseminating such information under the following conditions:

(a) In addition to any other requirements under the contract executed pursuant to paragraph (b) of this subsection, the person requesting the information must file a performance bond with the department in the amount of $25,000. The bond must be executed in favor of the State of Oregon and its form is subject to approval by the Attorney General.

(b) The disseminator shall enter into a contract with the department. A contract under this paragraph shall contain at least the following provisions:

(A) That the disseminator will not reproduce or distribute the personal information in bulk but only in response to an individual record inquiry.

(B) That the disseminator will provide the personal information only to a person or government agency authorized to receive the information under this section and only if the person or government agency has been authorized by the department to receive the information.

(C) That the disseminator will have a method of ensuring that the disseminator can delay for a period of up to two days the giving of personal information to a requester who is not a subscriber.

(14) The department shall disclose personal information to representatives of the news media for the gathering or dissemination of information related to the operation of a motor vehicle or to public safety.

(15) The department shall disclose personal information as provided in ORS 802.220 (5).

(16) The department shall adopt rules providing for the release of personal information from motor vehicle records to a person who has a financial interest in the vehicle. Rules adopted under this subsection may include, but need not be limited to, rules establishing procedures for the department to verify the financial interest of the person making the request for personal information.

(17) The department shall adopt rules providing for the release of personal information from motor vehicle records to a person who is injured by the unsafe operation of a vehicle or who owns property that is damaged because of the unsafe operation of a vehicle.

(18) The department shall disclose personal information to a private investigator licensed by any licensing authority within the State of Oregon, to be used for any purpose permitted under this section. A licensed private investigator requesting information must prove to the department that the person has a corporate surety bond, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or such other security as the Department of Public Safety Standards and Training may prescribe by rule in the minimum amount of $5,000 or errors and omissions insurance in the minimum amount of $5,000.

(19) The department shall disclose personal information to a procurement organization as defined in ORS 97.953 for the purpose of facilitating the making of anatomical gifts under the provisions of ORS 97.955. [1997 c.678 §4; 1999 c.24 §1; 1999 c.312 §2; 2001 c.231 §1; 2003 c.576 §565; 2005 c.291 §1; 2005 c.447 §15; 2005 c.505 §6; 2005 c.613 §27; 2007 c.681 §29; 2013 c.237 §35; 2015 c.138 §§20,21]

802.180 [1983 c.338 §135; 1993 c.751 §13; repealed by 1997 c.583 §9]

802.181 Redisclosure by authorized recipients of personal information from motor vehicle records. (1) Except as otherwise provided in subsections (2) to (5) of this section, a person or government agency that is authorized under ORS 802.179 to receive personal information from motor vehicle records may resell or redisclose the information only:

(a) To a person or government agency authorized to receive the information under ORS 802.179 and only if the person or government agency is authorized by the Department of Transportation to receive the resold or redisclosed information; and

(b) For purposes authorized under ORS 802.179.

(2) A researcher who receives personal information under ORS 802.179 (5) may not resell or redisclose the information except as provided in ORS 802.179 (5).

(3) A person who receives personal information under ORS 802.179 (11) may not resell or redisclose the information except as provided in ORS 802.179 (11).

(4) A representative of the news media who receives personal information under ORS 802.179 (14) may not resell or redisclose the information except as provided in ORS 802.179 (14).

(5) No one who receives personal information from the department under ORS 802.179 may sell or redisclose the information to a person who is in the business of disseminating the information.

(6) A person who resells or rediscloses personal information as authorized by this section, other than a representative of the news media, must keep records for a period of five years that identify each person who receives the information and the permitted purpose for which the person received the information. Records kept in accordance with this subsection must be made available to the department on request.

(7) A procurement organization that receives personal information as authorized by ORS 802.179 (19) may not resell or redisclose the information.

(8) The State of Oregon is immune from liability for any claim resulting from the resale or redisclosure of personal information under this section. [1997 c.678 §5; 1999 c.24 §2; 2005 c.291 §2; 2005 c.505 §7]

802.183 Fees for and rules regarding release of personal information from motor vehicle records. (1) The Department of Transportation may establish fees reasonably calculated to reimburse it for its actual cost in making personal information available to a person or government agency authorized under ORS 802.179 to obtain the information. Fees established under this subsection are subject to the provisions of ORS 192.324 (4) to (6).

(2) The department may adopt rules specifying conditions that must be met by a person or government agency requesting personal information under ORS 802.179. Such conditions may include but need not be limited to:

(a) Providing reasonable assurance of the identity of the requester;

(b) Providing reasonable assurance of the uses to which the personal information will be put, if applicable;

(c) Showing that the individual whose personal information is to be disclosed has given permission for the disclosure, if permission is required; and

(d) Submitting a written request for the personal information in a form prescribed by the department. [1997 c.678 §6; 2007 c.467 §3]

802.185 Notice to individual of certain requests for information; waiver. The Department of Transportation may establish a procedure under which the department, upon receiving a request for disclosure of personal information that does not come from a person or government agency authorized under ORS 802.179 to receive the information or does not fall within one of the uses permitted under ORS 802.179, may mail a copy of the request to the individual about whom the information was requested. The copy of the request shall be accompanied by a statement that the personal information requested will not be disclosed unless the individual waives any right to privacy created by ORS 802.175 to 802.187. [1997 c.678 §7]

802.187 Relationship to other privacy statutes; access to information about self. (1) Nothing in ORS 802.175 to 802.187 authorizes disclosure by the Department of Transportation of personal information that is barred from disclosure by the provisions of ORS 192.355 (2) or 192.368.

(2) Nothing in ORS 802.175 to 802.187 prohibits an individual from having access to personal information about the individual that is contained in motor vehicle records. [1997 c.678 §8]

802.189 Criminal penalty for violation of ORS 802.175 to 802.187. Knowingly obtaining or using personal information from a motor vehicle record in violation of ORS 802.175 to 802.187 is a Class A misdemeanor. [1997 c.678 §9]

802.191 Civil action for violation of ORS 802.175 to 802.187. (1) A person aggrieved by an intentional violation of ORS 802.175 to 802.187 may bring an action at law against a person who has knowingly obtained or used personal information about the aggrieved person in violation of ORS 802.175 to 802.187. The action shall be for actual damages or $2,500, whichever is greater, plus attorney fees and court costs reasonably incurred in the action.

(2) A person aggrieved by a violation of ORS 802.175 to 802.187, a district attorney or the Attorney General may obtain appropriate relief to enforce ORS 802.175 to 802.187, together with attorney fees and costs reasonably incurred in an action for relief.

(3) Any person whose use or obtaining of personal information in violation of ORS 802.175 to 802.187 subjects the State of Oregon to any liability or claim shall indemnify and hold harmless this state from all such liability and any claims, including attorney fees and court costs, incurred in any proceeding arising under ORS 802.175 to 802.187. [1997 c.678 §10]

802.195 Social Security numbers; disclosure; fees; penalty. (1) As used in this section:

(a) "Motor vehicle record" means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.

(b) "Person" has the meaning given that term in ORS 802.175.

(2) Neither the Department of Transportation nor any officer, employee or contractor of the department may knowingly disclose or otherwise make available to any person an individual's Social Security number that is obtained by the department in connection with a motor vehicle record.

(3) Notwithstanding subsection (2) of this section, the department may, upon the request of another government agency, or shall, as required by law, disclose an individual's Social Security number from a motor vehicle record to the other agency for use in carrying out the other agency's governmental functions.

(4) An Oregon government agency that receives an individual's Social Security number under subsection (3) of this section may not redisclose the Social Security number except as required by law. An Oregon government agency that rediscloses a Social Security number as authorized by this subsection shall keep for five years records that identify each other government agency

that receives the Social Security number. Records kept in accordance with this subsection must be made available to the department upon request.

(5) The department may establish fees reasonably calculated to reimburse the department for the actual cost of making an individual's Social Security number available to a government agency as required in subsection (3) of this section.

(6) Nothing in this section prohibits an individual from having access to that individual's own Social Security number that is contained in motor vehicle records.

(7) Knowingly obtaining or using a Social Security number from a motor vehicle record in violation of this section is a Class A misdemeanor.

(8) A person aggrieved by violation of this section may bring a civil action against a person who has knowingly obtained or used the aggrieved person's Social Security number in violation of this section. The action shall be for actual damages or $2,500, whichever is greater, plus attorney fees and court costs reasonably incurred in the action.

(9) A person aggrieved by a violation of this section, a district attorney or the Attorney General may obtain appropriate relief to enforce this section, together with attorney fees and costs reasonably incurred in an action.

(10) Any person whose use or acquisition of a Social Security number in violation of this section subjects the State of Oregon to any liability or claim shall indemnify and hold harmless this state from all such liabilities and claims, including attorney fees and court costs, incurred in any action brought under this section. [2003 c.610 §3]

Note: The amendments to 802.195 by section 14, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

802.195. (1) As used in this section:

(a) "Motor vehicle record" means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.

(b) "Person" has the meaning given that term in ORS 802.175.

(2) Neither the Department of Transportation nor any officer, employee or contractor of the department may knowingly disclose or otherwise make available to any person:

(a) An individual's Social Security number that is obtained by the department in connection with a motor vehicle record; or

(b) Whether a person provided a Social Security number to the department when applying for a driver license, driver permit or identification card.

(3) Notwithstanding subsection (2) of this section, the department may, upon the request of another government agency, or shall, as required by law, disclose an individual's Social Security number or lack thereof from a motor vehicle record to the other agency for use in carrying out the other agency's governmental functions.

(4) An Oregon government agency that receives an individual's Social Security number under subsection (3) of this section may not redisclose the Social Security number except as required by law. An Oregon government agency that rediscloses a Social Security number as authorized by this subsection shall keep for five years records that identify each other government agency that receives the Social Security number. Records kept in accordance with this subsection must be made available to the department upon request.

(5) The department may establish fees reasonably calculated to reimburse the department for the actual cost of making an individual's Social Security number available to a government agency as required in subsection (3) of this section.

(6) Nothing in this section prohibits an individual from having access to that individual's own Social Security number that is contained in motor vehicle records.

(7) Knowingly obtaining or using a Social Security number from a motor vehicle record in violation of this section is a Class A misdemeanor.

(8) A person aggrieved by violation of this section may bring a civil action against a person who has knowingly obtained or used the aggrieved person's Social Security number in violation of this section. The action shall be for actual damages or $2,500, whichever is greater, plus attorney fees and court costs reasonably incurred in the action.

(9) A person aggrieved by a violation of this section, a district attorney or the Attorney General may obtain appropriate relief to enforce this section, together with attorney fees and costs reasonably incurred in an action.

(10) Any person whose use or acquisition of a Social Security number in violation of this section subjects the State of Oregon to any liability or claim shall indemnify and hold harmless this state from all such liabilities and claims, including attorney fees and court costs, incurred in any action brought under this section.

802.200 Required records; rules. In addition to any other records the Department of Transportation may establish, the department is subject to the following provisions concerning records:

(1) The department shall maintain records concerning the titling of vehicles in this state. The records under this subsection shall include the following:

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

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

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

(C) The vehicle description; and

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

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

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

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

(e) All odometer disclosures and readings for a vehicle that are reported to the department under provisions of the vehicle code. The department shall keep the most recent version of records required under this paragraph in electronic form.

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

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

(3) Except as otherwise provided in ORS 826.003, the department shall maintain records concerning the registration of vehicles required to be registered by the department. The records concerning the registration of vehicles may be stored along with records concerning the titling of vehicles. The records under this subsection shall include the following:

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

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

(B) The name of the vehicle owner;

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

(D) An indication that the vehicle is a totaled vehicle if it has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

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

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

(a) The person's application for a vehicle dealer certificate.

(b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.

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

(5) The department shall maintain a file on vehicles for which the title record is canceled under ORS 819.030. The records required under this subsection shall disclose the last registered owner of each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the canceled title record for each vehicle and the make and year model for each vehicle.

(6) The department shall maintain a record of each agreement or declaration under ORS 802.500 and 802.520.

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

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

(a) An index by name and number.

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

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

(d) All driver licenses or driver permits that have been suspended, revoked or canceled.

(e) For each driver license, driver permit or identification card, the Social Security number of the person to whom the driver license, driver permit or identification card is issued or proof that the person is not eligible for a Social Security number.

(f) For each commercial driver license and commercial learner driver permit, the Social Security number of the person to whom the license or permit is issued, or any other number or identifying information that the Secretary of the United States Department of Transportation determines appropriate to identify the person.

(9) The Department of Transportation shall maintain a two-part driving record consisting of an employment driving record and a nonemployment driving record for each person as required under this subsection. All of the following apply to the records required under this subsection:

(a) The department shall maintain driving records on each person the department determines requires an Oregon driving record to comply with federal regulations or provisions of the vehicle code. The department shall establish rules for maintaining driving records under this subsection.

(b) In addition to other information required by this paragraph, the employment driving record shall include all reports of drug test results that are made to the department under ORS 825.410 or 825.415. Notwithstanding any other provision of law, release of the portion of the employment driving record that shows drug test results reported under ORS 825.410 or 825.415 is permitted only in accordance with ORS 802.202. The employment driving record shall also include all motor vehicle accidents that the person is required to report under ORS 811.720, all suspensions of driving privileges required to be placed on the record under ORS 809.280, all suspensions of the person's commercial driving privileges that result from operation or use of a commercial motor vehicle and all convictions, as determined by the department by rule, of the person for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation or suspension of driving privileges under ORS 809.409, 809.411, 809.510 to 809.545 and 813.400, but shall include only such accidents, suspensions and convictions that occur while the person is driving a motor vehicle:

(A) In the course of the person's employment when the person is employed by another for the principal purpose of driving a motor vehicle;

(B) Carrying persons or property for compensation;

(C) In the course of the person's employment in the collection, transportation or delivery of mail if the vehicle is government owned or marked for the collection, transportation or delivery of mail in accordance with government rules;

(D) That is an authorized emergency vehicle;

(E) That is a commercial motor vehicle; or

(F) In the course of the person's employment with a federal, state or local government in a public works project involving repair or maintenance of water, sewer or road systems.

(c) The nonemployment driving record shall include the person's:

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

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

(C) Judgments and convictions, as determined by the department by rule, for violation of the motor vehicle laws including, for each violation of ORS 811.100 or 811.111, the speed at which the person was convicted of traveling and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate; and

(D) Diversion agreements entered into under ORS 813.220 within the preceding 15 years.

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

(e) When a person is issued a driver license or driver permit by this state, the department may request a copy of driving records that exist for the person in any other jurisdiction. The department shall adopt rules specifying when the department may request driving records from other jurisdictions and may apply entries from out-of-state records for use in Oregon.

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

(g) The Department of Transportation, in consultation with the Department of State Police, shall devise and implement a method of noting suspensions and revocations of driving privileges on the record in such a way that police agencies can determine directly from the record what class of offense, as provided by law, is committed by a person who drives in violation of the suspension or revocation. If the Department of Transportation and the Department of State Police devise a mutually agreeable alternative method of informing police agencies of the nature of a suspension or revocation and the consequences of its violation, the implementation of that method shall satisfy the duty of the Department of Transportation under this paragraph.

(10) The department shall maintain accident reports filed with the department under ORS 810.460 and 811.725 to 811.735.

(11) The department shall maintain records of bank checks or money orders returned under ORS 802.110.

(12) The department shall maintain records of trip permits issued by the department under ORS 803.600, as provided under this subsection. The records required by this subsection shall include the following:

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

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

(c) When the permit was issued.

(d) The type of permit issued.

(e) For registration weight trip permits, the maximum allowable registration weight permitted for operation under the permit.

(f) Any other information the department determines appropriate or convenient. [1983 c.338 §124; 1985 c.16 §34; 1985 c.175 §1; 1985 c.251 §11a; 1985 c.313 §1; 1985 c.402 §5b; 1985 c.668 §2; 1987 c.5 §1; 1987 c.137 §5; 1987 c.730 §9; 1987 c.887 §6; 1989 c.636 §10; 1989 c.723 §6; 1991 c.284 §12; 1991 c.407 §21; 1991 c.820 §11; 1993 c.174 §10; 1993 c.233 §12; 1993 c.751 §14; 1995 c.733 §82a; 1999 c.230 §1; 1999 c.1051 §86; 1999 c.1099 §3; 2003 c.330 §2; 2003 c.402 §10; 2003 c.655 §97; 2003 c.819 §13; 2005 c.405 §§2,3; 2008 c.1 §8; 2009 c.515 §2; 2013 c.163 §4; 2013 c.237 §36; 2013 c.659 §2; 2019 c.312 §19]

Note: The amendments to 802.200 by section 16, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

802.200. In addition to any other records the Department of Transportation may establish, the department is subject to the following provisions concerning records:

(1) The department shall maintain records concerning the titling of vehicles in this state. The records under this subsection shall include the following:

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

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

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

(C) The vehicle description; and

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

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

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

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

(e) All odometer disclosures and readings for a vehicle that are reported to the department under provisions of the vehicle code. The department shall keep the most recent version of records required under this paragraph in electronic form.

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

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

(3) Except as otherwise provided in ORS 826.003, the department shall maintain records concerning the registration of vehicles required to be registered by the department. The records concerning the registration of vehicles may be stored along with records concerning the titling of vehicles. The records under this subsection shall include the following:

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

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

(B) The name of the vehicle owner;

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

(D) An indication that the vehicle is a totaled vehicle if it has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

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

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

(a) The person's application for a vehicle dealer certificate.

(b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.

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

(5) The department shall maintain a file on vehicles for which the title record is canceled under ORS 819.030. The records required under this subsection shall disclose the last registered owner of each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the canceled title record for each vehicle and the make and year model for each vehicle.

(6) The department shall maintain a record of each agreement or declaration under ORS 802.500 and 802.520.

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

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

(a) An index by name and number.

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

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

(d) All driver licenses or driver permits that have been suspended, revoked or canceled.

(e)(A) For each driver license, driver permit or identification card, the Social Security number of the person to whom the driver license, driver permit or identification card is issued or the written statement that the person has not been assigned a Social Security number.

(B) As used in this paragraph, a "driver license," "driver permit" or "identification card" means a driver license, driver permit or identification card that is not a:

(i) Real ID;

(ii) Commercial driver license; or

(iii) Commercial learner driver permit.

(f) For each commercial driver license and commercial learner driver permit, the Social Security number of the person to whom the license or permit is issued, or any other number or identifying information that the Secretary of the United States Department of Transportation determines appropriate to identify the person.

(g) For each Real ID, the Social Security number of the person to whom the Real ID is issued, or proof that the person is not eligible for a Social Security number.

(9) The Department of Transportation shall maintain a two-part driving record consisting of an employment driving record and a nonemployment driving record for each person as required under this subsection. All of the following apply to the records required under this subsection:

(a) The department shall maintain driving records on each person the department determines requires an Oregon driving record to comply with federal regulations or provisions of the vehicle code. The department shall establish rules for maintaining driving records under this subsection.

(b) In addition to other information required by this paragraph, the employment driving record shall include all reports of drug test results that are made to the department under ORS 825.410 or 825.415. Notwithstanding any other provision of law, release of the portion of the employment driving record that shows drug test results reported under ORS 825.410 or 825.415 is permitted only in accordance with ORS 802.202. The employment driving record shall also include all motor vehicle accidents that the person is required to report under ORS 811.720, all suspensions of driving privileges required to be placed on the record under ORS 809.280, all suspensions of the person's commercial driving privileges that result from operation or use of a commercial motor vehicle and all convictions, as determined by the department by rule, of the person for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation or suspension of driving privileges under ORS 809.409, 809.411, 809.510 to 809.545 and 813.400, but shall include only such accidents, suspensions and convictions that occur while the person is driving a motor vehicle:

(A) In the course of the person's employment when the person is employed by another for the principal purpose of driving a motor vehicle;

(B) Carrying persons or property for compensation;

(C) In the course of the person's employment in the collection, transportation or delivery of mail if the vehicle is government owned or marked for the collection, transportation or delivery of mail in accordance with government rules;

(D) That is an authorized emergency vehicle;

(E) That is a commercial motor vehicle; or

(F) In the course of the person's employment with a federal, state or local government in a public works project involving repair or maintenance of water, sewer or road systems.

(c) The nonemployment driving record shall include the person's:

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

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

(C) Judgments and convictions, as determined by the department by rule, for violation of the motor vehicle laws including, for each violation of ORS 811.100 or 811.111, the speed at which the person was convicted of traveling and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate; and

(D) Diversion agreements entered into under ORS 813.220 within the preceding 15 years.

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

(e) When a person is issued a driver license or driver permit by this state, the department may request a copy of driving records that exist for the person in any other jurisdiction. The department shall adopt rules specifying when the department may request driving records from other jurisdictions and may apply entries from out-of-state records for use in Oregon.

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

(g) The Department of Transportation, in consultation with the Department of State Police, shall devise and implement a method of noting suspensions and revocations of driving privileges on the record in such a way that police agencies can determine directly from the record what class of offense, as provided by law, is committed by a person who drives in violation of the suspension or revocation. If the Department of Transportation and the Department of State Police devise a mutually agreeable alternative method of informing police agencies of the nature of a suspension or revocation and the consequences of its violation, the implementation of that method shall satisfy the duty of the Department of Transportation under this paragraph.

(10) The department shall maintain accident reports filed with the department under ORS 810.460 and 811.725 to 811.735.

(11) The department shall maintain records of bank checks or money orders returned under ORS 802.110.

(12) The department shall maintain records of trip permits issued by the department under ORS 803.600, as provided under this subsection. The records required by this subsection shall include the following:

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

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

(c) When the permit was issued.

(d) The type of permit issued.

(e) For registration weight trip permits, the maximum allowable registration weight permitted for operation under the permit.

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

802.202 Conditions for disclosure of drug test results. The Department of Transportation shall disclose information

about a drug test result that is made to the department under ORS 825.410 or 825.415 only if the person who requests the information provides the department with written permission from the person who is the subject of the report. [1999 c.1099 §9; 2013 c.163 §5]

802.210 Records of notification of approaching expiration of registration or license not required. The Department of Transportation is not required to maintain records on any of the following:

(1) The preparation and notification required on approaching expiration of registration under ORS 803.450.

(2) The preparation and notification required on approaching expiration of driver license or driver permit under ORS 807.140. [1983 c.338 §125; 1985 c.16 §35; 2015 c.404 §4; 2019 c.312 §21]

802.220 Availability of records; fees authorized. (1) Except as otherwise provided in this subsection and ORS 802.177, the records the Department of Transportation maintains under ORS 802.200 on vehicles are public records. The records of vehicles registered under ORS 805.060 are not public records and are exempt from public inspection as provided under ORS 181A.220 and are for the confidential use of criminal justice agencies described under ORS 181A.010. The department may charge the fee established under ORS 802.230 for furnishing information under this section concerning a vehicle or its owner.

(2) The department may charge the fee established under ORS 802.230 for furnishing to the public information from the records the department maintains under ORS 802.200 concerning driver licenses or driver permits.

(3) The records the department keeps under ORS 802.200 on judgments or convictions under ORS 810.375 shall be open to the inspection of any person during reasonable business hours. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.

(4) The department shall upon request furnish any person certified abstracts of the employment driving record and the nonemployment driving record of any person whose driving records are maintained under ORS 802.200. If an abstract of the employment driving record is not specifically requested, the department shall only furnish an abstract of the nonemployment driving record. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175. The department shall collect the fee established for abstracts of driving records under ORS 802.230. A certified abstract issued under this section shall not contain any of the following, unless the abstract is being requested under ORS 746.265 (3):

(a) Any accident or conviction for violation of motor vehicles laws that occurred more than three years immediately preceding a request for abstract.

(b) Any suspension ordered under ORS 809.220 after the department has received notice to reinstate a person's suspended driving privileges under ORS 809.220.

(c) Any diversion agreement under ORS 813.220 entered into more than three years immediately preceding a request for the abstract.

(5) Except as otherwise provided in this subsection, accident reports filed with the department under ORS 811.725, 811.730 or 811.735 shall be without prejudice to the individual filing the report and shall be for the confidential use of state administrative and enforcement agencies. The department may use the confidential accident reports to provide the following information to the persons described:

(a) Upon request, the department shall disclose the following information to any party involved in the accident or to their personal representative or any member of the family of a party involved in the accident:

(A) The identity of the owner, driver, occupants and the registration number of a vehicle involved in the accident;

(B) The names of any companies insuring the owner or driver of a vehicle involved in the accident; and

(C) The names of any witnesses to the accident.

(b) The department shall furnish a certificate showing that a specified accident report has or has not been made to the department upon demand of any person who has or claims to have made such a report or upon demand of a court.

(6) The department shall tabulate and may analyze all accident reports to develop statistical information based thereon as to the number and circumstances of traffic accidents. The department shall publish information compiled under this section in the manner provided under ORS 802.050.

(7) Except as otherwise provided in this subsection, the records the department is required under ORS 802.200 to maintain on trip permits issued under ORS 803.600 are public records. The department may charge a fee established under ORS 802.230 for furnishing information from the records on trip permits. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.

(8) The records the department maintains under ORS 802.200 concerning odometer readings for vehicles are public records. The department may separately furnish information concerning odometer readings shown by its records. The department may charge the fee established under ORS 802.230 for information separately provided under this subsection. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175. [1983 c.338 §126; 1985 c.16 §36; 1985 c.175 §2; 1985 c.251 §12; 1985 c.313 §2; 1987 c.5 §2; 1989 c.853 §2; 1991 c.568 §1; 1993 c.751 §16; 1997 c.678 §11; 2001 c.327 §2; 2011 c.355 §6]

802.222 [1989 c.396 §2; repealed by 1997 c.678 §15]

802.224 [1991 c.568 §3; 1993 c.37 §1; 1993 c.224 §1; repealed by 1997 c.678 §15]

802.230 Fees for records. (1) The fee for furnishing information concerning vehicle registration records under ORS 802.220 is a reasonable fee established by the Department of Transportation.

(2) The fee for furnishing information concerning driver licenses or driver permits under ORS 802.220 is a reasonable fee established by the department.

(3) The fee for an abstract of driving record under ORS 802.220 is a reasonable fee established by the department.

(4) The fee for furnishing information concerning trip permit records under ORS 802.220 is a reasonable fee established by the department.

(5) The fee for separate records on vehicle odometer readings under ORS 802.220 is a reasonable fee established by the department. [1983 c.338 §127; 1985 c.16 §37; 1985 c.175 §3; 1985 c.251 §13; 1985 c.313 §3; 1987 c.5 §3]

802.240 Driver and vehicle records as evidence. (1) In all actions, suits or criminal proceedings when the title to, or right of possession of, any vehicle is involved, the record of title, as it appears in the files and records of the Department of Transportation, is prima facie evidence of ownership or right to possession of the vehicle. As used in this section, the record of title does not include records of salvage titles unless the record itself is the salvage title. Proof of the ownership or right to possession of a vehicle shall be made by means of any of the following methods:

(a) The original certificate of title as provided under ORS 803.010.

(b) A copy, certified by the department, of the title record of the vehicle as the record appears in the files and records of the department.

(2) Extrinsic evidence of authenticity is not required as a condition precedent to the admission of a copy of a document relating to the privilege of any person to drive a motor vehicle authorized by law to be filed and actually filed in the records of the department if the copy bears a seal purporting to be that of the department and is certified as a true copy by original or facsimile signature of a person purporting to be an officer or employee of the department. This subsection applies to copies of a data compilation in any form. Copies of documents certified in accordance with this subsection constitute prima facie evidence of the existence of the facts stated therein.

(3) A certified copy of a person's driving record, as maintained by the department:

(a) May be admitted as evidence in any hearing or proceeding under ORS 813.200 to 813.270.

(b) Is prima facie evidence that the person named therein was duly convicted of each offense shown by the record.

(c) Is prima facie evidence that the person named therein is participating in or has participated in a driving under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in this state or in any other jurisdiction if the record shows that the person has participated in such a program.

(4) Records and actions described in this subsection shall not be referred to in any way or admitted into evidence or be any evidence of the negligence or due care of any party at the trial of any action at law to recover damages. This subsection applies to all of the following:

(a) The report required following an accident.

(b) Any action taken by the department to revoke or suspend a driver license or driver permit or taken by the department under the financial responsibility requirements of the vehicle code or the findings, if any, of the department upon which such action of the department is based.

(c) Any deposit of security required under the financial responsibility requirements of the vehicle code.

(5) Except as provided in this subsection, the accident reports filed with the department under ORS 811.725, 811.730 or 811.735 shall be without prejudice to the individual filing the report and no such report shall be used as evidence in any trial, civil or criminal, arising out of an accident. The following uses are allowable under this subsection:

(a) The certificate issued by the department under ORS 802.220 to show whether or not an accident report has been made to the department shall be used solely to prove a compliance or failure to comply with the re-

quirements that the accident report be made to the department.

(b) An accident report submitted under ORS 811.725 or 811.735 may be used in an administrative hearing or an appeal from such hearing to support any suspension of driving privileges for:

(A) Failure to make reports required under ORS 811.725 or 811.735.

(B) Failure to comply with financial responsibility requirements or failure to comply with future responsibility filings.

(6) A photocopy, facsimile copy, digital or electronic copy of an application for perfection of a security interest by notation on a title under ORS 803.097 that is certified by the department is proof of the date of perfection of the security interest unless the date is invalid as provided under ORS 803.097.

(7) A report filed by a physician or health care provider under ORS 807.710 is confidential and may not be admitted as evidence in any civil or criminal action. A report described in this subsection may be used in an administrative hearing or an appeal from an administrative hearing in which an issue is the qualification of a person to operate a motor vehicle. [1983 c.338 §128; 1985 c.16 §38; 1985 c.175 §4; 1987 c.441 §1; 1987 c.750 §3; 1989 c.148 §7; 1991 c.67 §210; 1991 c.702 §26; 1991 c.873 §22a; 1993 c.233 §13; 1999 c.1051 §279; 2001 c.675 §6; 2003 c.462 §2; 2003 c.655 §98]

802.250 Records containing residence address of eligible public employee or household member. (1) An eligible public employee may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the eligible employee's residence address contain instead the address of the public agency employing the eligible employee. A request under this section shall:

(a) Be in a form specified by the department that provides for verification of the eligible employee's employment.

(b) Contain verification by the employing public agency of the eligible employee's employment with the public agency.

(2) Upon receipt of a request and verification under subsection (1) of this section, the department shall remove the eligible employee's residence address from its records, if necessary, and substitute therefor the address of the public agency employing the eligible employee. The department shall indicate on the records that the address shown is an employment address. While the request is in effect, the eligible employee may enter the address of the public agency employing the eligible employee on any driver or vehicle form issued by the department that requires an address.

(3) A public agency that verifies an eligible employee's employment under subsection (1) of this section shall notify the department within 30 days if the eligible employee ceases to be employed by the public agency. The eligible employee shall notify the department of a change of address as provided in ORS 803.220 or 807.560.

(4) If an eligible employee is killed in the line of duty, a person who is a household member of the eligible employee may request that any driver or vehicle record kept by the department that contains or is required to contain the household member's residence address continue to contain the address of the public agency that employed the eligible employee for up to four years after the date of the death of the eligible employee. On or before the date on which the four-year period ends, the household member shall notify the department of a change of address as provided in ORS 803.220 or 807.560. A request under this subsection shall be in a form specified by the department.

(5) As used in this section, "eligible employee" means:

(a) A member of the State Board of Parole and Post-Prison Supervision.

(b) The Director of the Department of Corrections and an employee of an institution defined in ORS 421.005 as Department of Corrections institutions, whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the institution.

(c) A parole and probation officer employed by the Department of Corrections and an employee of the Department of Corrections Release Center whose duties, as assigned by the Chief of the Release Center, include the custody of persons committed to the custody of or transferred to the Release Center.

(d) A police officer appointed under ORS 276.021 or 276.023.

(e) An employee of the State Department of Agriculture who is classified as a brand inspector by the Director of Agriculture.

(f) An investigator of the Criminal Justice Division of the Department of Justice.

(g) A corrections officer as defined in ORS 181A.355.

(h) A federal officer. As used in this paragraph, "federal officer" means a special agent or law enforcement officer employed by:

(A) The Federal Bureau of Investigation;

(B) The United States Secret Service;

(C) The United States Citizenship and Immigration Services;

(D) The United States Marshals Service;

(E) The Drug Enforcement Administration;

(F) The United States Postal Service;

(G) The United States Customs and Border Protection;

(H) The United States General Services Administration;

(I) The United States Department of Agriculture;

(J) The Bureau of Alcohol, Tobacco, Firearms and Explosives;

(K) The Internal Revenue Service;

(L) The United States Department of the Interior; or

(M) Any federal agency if the person is empowered to effect an arrest with or without warrant for violations of the United States Code and is authorized to carry firearms in the performance of duty.

(i) An employee of the Department of Human Services or the Oregon Health Authority whose duties include personal contact with clients or patients of the department or the authority.

(j) Any judge of a court of this state.

(k) An employee of the Oregon Youth Authority or of a county juvenile department whose duties include personal contact with persons committed to the legal or physical custody of the authority or of the county juvenile department.

(L) A district attorney, as defined in ORS 131.005, or deputy district attorney.

(m) An employee who provides educational services to persons who are clients or patients of the Department of Human Services or the Oregon Health Authority, who are under the jurisdiction of the Psychiatric Security Review Board or who are under the custody or supervision of the Department of Corrections, the State Board of Parole and Post-Prison Supervision, a community corrections agency, the Oregon Youth Authority or a juvenile department. As used in this paragraph, "employee who provides educational services" means a person who provides instruction, or services related to the instruction, of a subject usually taught in an elementary school, a secondary school or a community college or who provides special education and related services in other than a school setting and who works for:

(A) An education service district or a community college district; or

(B) A state officer, board, commission, bureau, department or division in the executive branch of state government that provides educational services.

(n) An employee of the Oregon Liquor Control Commission who is:

(A) A regulatory specialist; or

(B) A regulatory manager.

(o) A police officer as defined in ORS 801.395.

(p) An employee whose duties include personal contact with criminal offenders and who is employed by a law enforcement unit, as defined in ORS 181A.355.

(q) A civil code enforcement officer, as defined in ORS 192.345. [1985 c.563 §§2,3; 1989 c.695 §1; 1991 c.67 §211; 1991 c.523 §1; 1991 c.789 §1; 1993 c.741 §76; 1993 c.751 §17; 1997 c.872 §11; 2003 c.399 §1; 2005 c.22 §513; 2005 c.292 §1a; 2007 c.71 §244; 2007 c.169 §1; 2009 c.595 §1138; 2011 c.297 §1; 2012 c.54 §31; 2013 c.56 §1; 2015 c.313 §4; 2015 c.614 §167; 2019 c.61 §4]

802.251 [1991 c.523 §3; 2005 c.292 §4; renumbered 802.255 in 2005]

802.253 Records containing residence address of corrections officer or household member. (1) As used in this section:

(a) "Correctional facility" means an institution used for the confinement of persons convicted of a criminal offense or held by court order.

(b) "Corrections officer" means a person employed in a correctional facility, wherever it may be located, who primarily performs the duty of custody, control or supervision of individuals convicted of a criminal offense.

(2) A corrections officer, who is a resident of Oregon but is employed in a correctional facility located in a state other than Oregon, may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the corrections officer's residence address contain instead the address of the correctional facility employing the corrections officer. A request under this subsection must:

(a) Be in a form specified by the department that includes designation of the Oregon county of residence.

(b) Contain verification of employment as determined adequate by the department to establish eligibility for this service.

(3) Upon receipt of a request and verification under this section, the department shall remove the corrections officer's residence address from its records, if necessary, and substitute the address of the correctional facility employing the corrections officer. The department shall indicate on the records that the address shown is an employment address. While the request is in effect, the corrections officer may enter the address of the correctional facility employing the cor-

rections officer on any driver or vehicle form issued by the department that requires an address.

(4) If the corrections officer ceases to be employed in the correctional facility, the corrections officer shall notify the department of a change of address as provided in ORS 803.220 or 807.560.

(5) If a corrections officer is killed in the line of duty, a person who is a household member of the corrections officer may request that any driver or vehicle record kept by the department that contains or is required to contain the household member's residence address continue to contain the address of the public agency that employed the corrections officer for up to four years after the date of the death of the corrections officer. On or before the date on which the four-year period ends, the household member shall notify the department of a change of address as provided in ORS 803.220 or 807.560. A request under this subsection shall be in a form specified by the department. [2005 c.292 §3; 2011 c.297 §2]

802.255 Exchange of information for implementation of ORS 802.250 and 802.253. The Department of Transportation on behalf of the State of Oregon may enter into contracts with other states and with the federal government for the exchange of employment information necessary to implement and administer ORS 802.250 and 802.253. [Formerly 802.251]

802.260 Driver license and identification card records; contents; copies to counties; fees. (1) In addition to any other information required or permitted by law, the records of driver licenses maintained by the Department of Transportation and the records of identification cards issued under ORS 807.400 maintained by the department shall include the name, address, date of birth and county of residence of each holder of an unexpired driver license and each holder of an unexpired identification card.

(2) At the request of the clerk of court, as defined in ORS 10.010, for an Oregon county, or at the request of the State Court Administrator, the department shall furnish a copy of the records maintained for a county under subsection (1) of this section. The department shall establish a fee reasonably calculated to reimburse the department for the actual costs of providing the records and shall collect the fee from the requester of the records. [1987 c.681 §2; 1993 c.751 §18; 2003 c.803 §17]

802.270 Records of insurance information. (1) The Department of Transportation shall maintain computerized records of insurance information. The department's computer system shall contain information submitted by insurers under ORS 742.580 and 806.195 and shall be accessible to law enforcement agencies in the state for the purpose of determining whether a particular person or vehicle is in compliance with the financial responsibility requirements of this state.

(2) Information provided to the department by insurers under ORS 742.580 and 806.195 may not be made available to anyone other than law enforcement officials, employees of the department acting in an official capacity, other governmental agencies if necessary for them to carry out their duties, powers or functions or individuals when the information is needed to determine insurance coverage of the individual requester or another individual.

(3) A computer system designed for the purposes specified in this section shall, to the extent possible, enable insurers to transfer information directly to the computer in a way that is most convenient for the insurers and the department.

(4) Records of insurance coverage maintained by the department under this section are for the purpose of helping law enforcement officials determine whether there are reasonable grounds to believe that a person is operating a vehicle in violation of ORS 806.010. In any other dispute about motor vehicle insurance coverage, if there is a conflict between the records of the department and the records of the insurer, the records of the insurer shall be presumed to be accurate. [1993 c.746 §8; 2001 c.104 §299]

TRANSPORTATION SAFETY PROGRAMS AND TRAFFIC SAFETY EDUCATION

802.300 Transportation Safety Committee; members, compensation, expenses; staff. (1) The Transportation Safety Committee is created within the Department of Transportation to advise the department and the Oregon Transportation Commission concerning the functions described under ORS 802.310 and to perform any other functions related to transportation safety that the commission delegates. The committee established under this section shall consist of five members appointed by the Governor on the recommendation of the commission. The term of office of each member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. In case of a vacancy for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(2) The Governor shall appoint one member of the committee established under this

section as the chair and another member as vice chair.

(3) A member of the committee established under this section is entitled to compensation and expenses as provided under ORS 292.495.

(4) The Director of Transportation may appoint assistants, consultants, clerical staff and other employees needed to carry out the purposes of the committee but shall, as much as possible, consolidate the staff and coordinate the activities of the committee with other staff and activities of the department. [1983 c.338 §119; 1991 c.453 §6; 1993 c.741 §77]

802.310 Transportation safety programs; administrator. (1) The administrator for transportation safety shall serve as the Governor's representative for highway safety in conformity with the Federal Highway Safety Act of 1966. The Director of Transportation and the Oregon Transportation Commission shall be responsible to the Governor for the administration of the state transportation safety programs. All reports and recommendations relating to program evaluations, assignment of responsibilities and approval of plans and activities shall be provided to the Governor by the commission.

(2) The Department of Transportation, in consultation with the Transportation Safety Committee, shall do the following:

(a) Organize, plan and conduct a statewide transportation safety program.

(b) Coordinate general activities and programs of the several departments, divisions or agencies of the state engaged in promoting transportation safety.

(c) Provide transportation safety information and develop other measures of public information.

(d) Cooperate fully with all national, local, public and private agencies and organizations interested in the promotion of transportation safety.

(e) Serve as a clearinghouse for all transportation safety materials and information used throughout the state.

(f) Cooperate in promoting research, special studies and analysis of problems concerning transportation safety.

(g) Make studies and suitable recommendations to the legislature concerning safety regulations and laws.

(3) The department shall review plans and applications for participation by counties and cities in the federal government highway safety programs conducted under the Federal Highway Safety Act of 1966 and any amendments thereto. The committee shall make recommendations to the department regarding the approval of plans and applications under ORS 802.315. [1983 c.338 §873; 1991 c.453 §7; 1993 c.741 §78; 2005 c.70 §4]

802.315 Department authority to apply for and receive federal highway safety program grants and other funds; local government program participation. (1) The Department of Transportation, with the advice of the Transportation Safety Committee, may apply for, accept, receive and disburse grants available from the federal government or any of its agencies to carry out approved state highway safety programs conducted under the Federal Highway Safety Act of 1966 and the amendments thereto.

(2) The department may accept funds from other sources and enter into such contracts or agreements and do all things necessary to receive such funds for the purposes of carrying out in this section and ORS 802.300, 802.329, 802.331 and 802.340. However, funds shall not be accepted that are subject to a restriction or condition that is in conflict with any law of this state.

(3) The department, considering the recommendations of the Transportation Safety Committee, shall approve plans or applications for participation by counties and cities in the federal government highway safety programs conducted under the Federal Highway Safety Act of 1966 and any amendments thereto. The approval of plans and applications shall be done in accordance with the uniform standards of the federal government regarding such programs. Subject to any conditions of the grant, the department shall disburse any funds received from the federal government or any of its agencies for county and city highway safety programs. [Formerly 802.410]

802.320 Motorcycle safety program; contents; fees; contracts. (1) In addition to any duties under ORS 802.310, the Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a motorcycle safety program that complies with this section to the extent moneys are available for such program from the Motorcycle Safety Subaccount under ORS 802.340. The program established may include the following:

(a) Motorcycle safety promotion and public education.

(b) The development of training sites for courses approved by the department to teach safe and proper operation of motorcycles and mopeds.

(c) Classroom instruction and actual driving instruction necessary to teach safe and proper operation of motorcycles and mopeds.

(d) The development of a mobile training unit.

(e) The acquisition of films and equipment that may be loaned to the public for the encouragement of motorcycle and moped safety.

(f) Advice and assistance, including monetary assistance, for motorcycle safety programs operated by government or nongovernment organizations.

(g) Other education or safety programs the department determines will help promote the safe operation of motorcycles and mopeds, promote safe and lawful driving habits, assist in accident prevention and reduce the need for intensive highway policing.

(2) Subject to the State Personnel Relations Law under ORS chapter 240, the department shall employ such employees as the department determines necessary to carry out the purposes of this section to:

(a) Advise and assist motorcycle safety programs in this state.

(b) Act as a liaison between government agencies and advisory committees and interested motorcyclist groups.

(3) The department may provide for the performance of training and other functions of the program established under this section by contracting with any private or public organizations or entities the department determines appropriate to achieve the purposes of this section. The organizations the department may contract with under this subsection include, but are not limited to, nonprofit private organizations, private organizations that are operated for profit, public or private schools, community colleges or public agencies or political subdivision.

(4) The department may charge a fee for services provided under the program established under this section. Any fee charged by the department under this subsection must be established by rule and may not be in an amount that will discourage persons from participating in safety programs offered by the department under this section. [1985 c.16 §442; 1989 c.427 §3; 1991 c.453 §8; 2015 c.138 §22]

802.325 Bicycle safety program; contents; fees. (1) The Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a bicycle safety program that complies with this section to the extent moneys are available for such program. The program established may include the following:

(a) Bicycle safety promotion and public education.

(b) Advice and assistance for bicycle safety programs operated by government or nongovernment organizations.

(c) Classroom instruction and actual riding instruction necessary to teach safe and proper operation of bicycles.

(d) Bicycle education and information that assist police agencies in the enforcement of bicycle laws.

(e) Other education or safety programs the department determines will help promote the safe operation of bicycles, promote safe and lawful riding habits and assist in accident prevention.

(2) The department shall act as a liaison between government agencies and advisory committees and interested bicyclist groups.

(3) The department may accept donations and solicit grants to enable the department to carry out the functions of this section.

(4) The department may charge a fee for services provided under the program established under this section. Any fee charged by the department under this subsection must be established by rule and may not be in an amount that will discourage persons from participating in safety programs offered by the department under this section. [1987 c.683 §2; 1991 c.453 §9; 2015 c.138 §23]

802.329 City and county highway safety program participation authorized. Any city or county may participate in the highway safety program and do all things necessary to secure the benefits available under ORS 802.310 and 802.315 and under the Federal Highway Safety Act of 1966 and any amendments thereto. [Formerly 802.420]

802.330 [1983 c.338 §138; repealed by 1991 c.453 §17]

802.331 Highway Safety Trust Account. The Highway Safety Trust Account is established separate and distinct from the General Fund. All moneys received by the Department of Transportation under ORS 802.315 shall be paid into the State Treasury and credited to the account established under this section. All moneys in the account established under this section are continuously appropriated for and shall be used by the department in carrying out the purposes for which the funds were received. [Formerly 802.400; 2003 c.81 §12; 2005 c.22 §514]

802.340 Transportation Safety Account; uses; Motorcycle Safety Subaccount. (1) The Transportation Safety Account is established in the General Fund of the State Treasury. Except as provided in subsection (2) of this section, all money credited to the account established under this section is appropriated continuously for and shall be used by the Department of Transportation to carry out the following purposes:

(a) Payment of the per diem, travel and other expenses of the Transportation Safety Committee.

(b) Payment of the expenses of the department in performance of its duties related to transportation safety.

(c) Functions or programs established under ORS 802.315.

(2) There is established in the account created under subsection (1) of this section a subaccount to be known as the Motorcycle Safety Subaccount. The subaccount shall consist of moneys credited to the subaccount under ORS 807.370 and as otherwise provided by law. The subaccount shall be accounted for separately. Moneys in the subaccount are continuously appropriated to the department for and shall be used to carry out the purposes provided under ORS 802.320. [1983 c.338 §139; 1985 c.16 §41; 1991 c.453 §10; 1993 c.741 §79]

802.345 [1999 c.328 §4; renumbered 336.802 in 2013]

COMMITTEES AND BOARDS

802.350 Winter Recreation Advisory Committee; members; meetings; rules. (1) The Winter Recreation Advisory Committee is created to perform the functions described for the committee under ORS 810.170.

(2) The committee created under this section shall consist of seven members appointed by the Oregon Transportation Commission as follows:

(a) Two persons representing ski area operators;

(b) One member representing the Oregon Nordic Club;

(c) One person representing the Pacific Northwest Ski Association;

(d) One member representing the Oregon State Snowmobile Association; and

(e) Two members from the general public interested in winter recreation in this state.

(3) Members of the committee established under this section shall not receive compensation for their service on the committee.

(4) The members shall be appointed to serve for terms of four years. Vacancies on the committee shall be filled by appointment by the commission for the unexpired term.

(5) The committee shall meet regularly four times a year at times and places fixed by the chair of the committee. The committee may meet at other times specified by the chair or a majority of the members of the committee.

(6) The Department of Transportation shall provide assistance and space for meetings as requested by the chair of the committee.

(7) The committee shall adopt rules to govern its proceedings and shall select a chair and any other officers it considers necessary.

(8) Members of the advisory committee shall be entitled to actual and necessary expenses as provided by ORS 292.495 (2). [1983 c.338 §122; 1989 c.498 §1]

802.360 [1985 c.459 §23; 1987 c.587 §10; 1989 c.991 §5; 1997 c.229 §2; repealed by 1999 c.977 §38]

802.370 Advisory committee on vehicle dealer regulation; members; compensation. (1) The Director of Transportation shall establish an advisory committee to advise the Department of Transportation on the administration of laws regulating vehicle dealers under the vehicle code.

(2) The department shall consult with the committee established under this section before the department adopts any rules under ORS 822.035 or before taking any disciplinary action against a dealer under ORS 822.050 to revoke, suspend, place the dealer on probation or levy a civil penalty against the dealer.

(3) The director shall appoint members of the committee established under this section and the members shall serve at the pleasure of the director. The director shall appoint members to the committee that represent vehicle dealers and members that represent the interests of the general public in the ownership, purchase and use of vehicles.

(4) The members of the committee established under this section shall serve without compensation or expenses for services performed. [1983 c.338 §121; 1985 c.16 §33; 1991 c.541 §9]

802.380 [1983 c.338 §123; 1989 c.1006 §5; repealed by 1993 c.742 §117]

802.390 [1983 c.338 §137; repealed by 1993 c.742 §117]

802.400 [1983 c.338 §140; 1991 c.453 §11; renumbered 802.331 in 1991]

802.410 [1983 c.338 §874; 1991 c.453 §12; renumbered 802.315 in 1991]

802.420 [1983 c.338 §875; renumbered 802.329 in 1991]

RECIPROCAL AGREEMENTS AND INTERSTATE COMPACTS

802.500 Authority for reciprocal registration agreements; permitted provisions; requirements; limitations. The Director of Transportation may enter into agreements with the duly authorized representatives of any jurisdiction that issues registration to establish reciprocal privileges or registration exemptions for vehicles as described in this section. All of the following apply to an agreement established under the authority granted by this section:

(1) An agreement may establish any of the following benefits, privileges and exemptions with respect to the operation of commercial or noncommercial vehicles in this state:

(a) For purposes of ORS 803.305 exemptions from registration and payment,

wholly or partially, of any vehicle or registration fees.

(b) Privileges relating to vehicles used by persons with disabilities.

(c) Privileges relating to vehicle parking.

(d) Privileges relating to vehicle dealers.

(e) Privileges, exemptions or benefits relating to farm vehicles or implements of husbandry.

(f) Privileges relating to persons commercially transporting vehicles.

(g) Any similar privileges, benefits or exemptions relating to the operation of vehicles.

(h) Privileges, benefits or exemptions relating to the registration of fleets of vehicles.

(2) An agreement shall only grant the privileges, benefits and exemptions to a vehicle or the owner of a vehicle if the vehicle is any of the following:

(a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

(b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business. To qualify under this paragraph the vehicle must be assigned to the place of business and the place of business must be the place from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.

(c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

(3) An agreement shall retain the right of the Department of Transportation to make the final determination as to the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper place of registration. An agreement shall retain the right of the department to confer with the departments of other jurisdictions affected when making a determination under this subsection.

(4) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration taxes, fees and requirements.

(5) An agreement must provide that any vehicle registered in this state will receive a similar kind or degree of exemptions, benefits and privileges when operated in another jurisdiction that is party to the agreement as vehicles registered in the other jurisdiction receive when operated in this state.

(6) An agreement, in the judgment of the director, shall be in the best interest of this state and its citizens, shall be fair and equitable to this state and its citizens and shall be determined on the basis and recognition of benefits that accrue to the economy of this state from the uninterrupted flow of commerce.

(7) An agreement may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or privilege under the agreement if the vehicle is operated from a base located in the other jurisdiction.

(8) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease to receive benefits, exemptions and privileges under the agreement.

(9) An agreement may authorize the department to suspend or cancel any exceptions, benefits or privileges granted to any person under the agreement if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.

(10) All agreements shall be in writing and filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.

(11) An agreement may be a limited type agreement with any state bordering this state as described in this subsection. An agreement described under this subsection is subject to all of the following:

(a) The benefits, exemptions and privileges under the agreement shall only be extended to vehicles or a class of vehicles as specified in the agreement.

(b) The agreement shall be applicable only within an area in each state that is situated along the boundary between the states and that is substantially equal in size.

(c) The usage permitted of the vehicles in the two areas shall be as substantially equal as may be practicable.

(d) The areas and usage subject to the agreement shall be described in the agreement.

(e) Proportional registration shall not be required under the agreement.

(f) The agreement shall comply with other mandatory provisions of this section and may contain any other provisions described under this section.

(g) A vehicle operating under the agreement may be required to obtain a permit under ORS 803.610.

(12) An agreement may require the display or submission of evidence of registration for any vehicle operating under the agreement. [1983 c.338 §142; 1985 c.16 §43; 1985 c.668 §3; 1993 c.174 §2; 2007 c.70 §323]

802.510 [1983 c.338 §144; 1985 c.16 §44; 1985 c.668 §5; repealed by 1989 c.43 §37]

802.520 Authority to grant registration privileges or exemptions to vehicles registered in other jurisdictions; declaration; limitations. The Director of Transportation may examine the laws and requirements of any jurisdiction that issues out-of-state registration and may grant a privilege or a registration exemption described in this section to vehicles or owners of vehicles registered in that jurisdiction. All of the following apply to the authority granted by this section:

(1) The director may only grant privileges or registration exemptions under this section to vehicles that are registered in jurisdictions that do not have an agreement with this state for privileges or registration exemptions under ORS 802.500 or 826.005 or an agreement for proportional registration with this state under ORS 826.007.

(2) All grants of privileges and registration exemptions under this section shall be by declaration, shall be in writing and shall be filed with the Department of Transportation within 10 days after execution or effective date, whichever is later.

(3) A declaration may grant benefits, privileges and exemptions with respect to the operation of commercial or noncommercial vehicles in this state of the same type that may be established by agreement under ORS 802.500 or 826.005.

(4) A declaration shall only grant the privileges, benefits and exemptions to a vehicle or the owner of a vehicle if the vehicle is any of the following:

(a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

(b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business. To qualify under this paragraph the vehicle must be assigned to the place of business and the place of business must be the place from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.

(c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

(5) The department shall make any final determination in any case of doubt or dispute as to the proper place of registration of a vehicle, but may confer with departments of other jurisdictions affected.

(6) A declaration shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration taxes, fees and requirements.

(7) A declaration shall only grant benefits, exemptions or privileges that are, in the judgment of the director, in the best interest of this state and its citizens, fair and equitable to this state and its citizens and determined on the basis and with recognition of benefits that accrue to the economy of this state from the uninterrupted flow of commerce.

(8) A declaration may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or privilege under the declaration if the vehicle is operated from a base located in the other jurisdiction.

(9) A declaration may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease, to receive benefits, exemptions and privileges under the declaration.

(10) A declaration may authorize the department to suspend or cancel any exemptions, benefits or privileges granted to any person under the declaration if the person violates any of the terms or conditions of the declaration or violates any law or rule of this state relating to vehicles. [1983 c.338 §143; 1985 c.668 §4; 1989 c.43 §16]

802.530 Authority of department for reciprocal agreements concerning traffic offenses; permitted provisions; fees; limitations; rules; report. The Department of Transportation is authorized to enter into bilateral or multilateral reciprocal agreements with other jurisdictions to provide mutual assistance in the disposition of traffic offenses committed by residents of one jurisdiction while in another jurisdiction. Agreements authorized by this section are subject to the following:

(1) An agreement may provide for the sharing of information between and among jurisdictions concerning driving records, vehicle registration records and records concerning the granting, denial, revocation or suspension of driving privileges.

(2) An agreement may provide that a jurisdiction will suspend the driving privileges of a resident of the jurisdiction if the resident does not comply with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction.

(3) An agreement may provide that a jurisdiction will refuse to issue or renew a driver license or permit or to issue a duplicate or replacement license or permit for a resident of the jurisdiction if the resident does not comply with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction.

(4) An agreement may be limited to certain traffic offenses.

(5) An agreement may provide for the establishment of fees for and collection of fees from persons cited for traffic offenses or convicted of traffic offenses who are subject to the terms of the agreement. Any agency of this state that participates in a program established by an agreement authorized by this section is granted authority to establish fees for and collect fees from persons subject to an agreement. Fees established for purposes of this subsection must be established by rule. No fee established for purposes of this subsection may exceed an amount necessary to recover the actual cost incurred by participation in the program established by the agreement.

(6) An agreement may provide that residents of one jurisdiction who are issued citations for traffic offenses in another jurisdiction will be released on recognizance without requirement of security deposit or bail. Nothing in this subsection authorizes an agreement that prohibits a court from releasing on security release, as defined in ORS 135.230, a person charged with a traffic crime.

(7) An agreement may provide that one jurisdiction will act as agent for another jurisdiction in the disposition of traffic offenses committed in the other jurisdiction. No provision described under this subsection may be established that requires the participation of courts of this state unless the Oregon Supreme Court establishes rules under ORS 1.002 to provide procedures for court participation.

(8) No agreement may be established under this section to provide for assistance in dealing with:

(a) Offenses other than traffic offenses.

(b) Parking offenses.

(c) Bicycle offenses.

(d) Pedestrian offenses.

(9) Any agreement established under this section must provide that this state may withdraw from the agreement upon notice of not more than 90 days.

(10) An agreement may include any other provision that the department determines will assist in the disposition of traffic offenses committed by residents of one jurisdiction while in another jurisdiction or will increase the convenience for residents of this state in complying with requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction.

(11) The department may adopt rules necessary to implement any agreement established under this section.

(12) The department must submit a report on any agreement proposed under this section to the presiding officers of each house of the Oregon Legislative Assembly at least 30 days before the agreement may take effect. An agreement described under this section cannot take effect in this state unless the department complies with this subsection. [1985 c.396 §2; 1993 c.102 §1; 1999 c.1051 §85]

802.540 Driver License Compact. The Driver License Compact is enacted into law and entered into on behalf of this state with all other states legally joining therein in a form substantially as follows:

ARTICLE I
FINDINGS AND DECLARATION
OF POLICY

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more

just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II
DEFINITIONS

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III
REPORTS OF CONVICTION

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV
EFFECT OF CONVICTION

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug or a controlled substance, or under the influence of any other drug or substance to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this Article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to insure that full force and effect is given to this Article.

ARTICLE V
APPLICATIONS FOR NEW LICENSES

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI
APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing contained

herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII
COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII
ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[1983 c.338 §168]

802.550 Administrative provisions relating to license compact. The following relate to the Driver License Compact under ORS 802.540:

(1) The Director of Transportation or the director's deputy shall act as the compact administrator. The compact administrator shall not be entitled to any additional compensation on account of service as compact administrator, but shall be entitled to expenses incurred in connection with such service, payable the same as expenses in connection with services as the normal duties of the person.

(2) When reference in the compact is made to the executive head in this state, the reference applies to the Governor of this state.

(3) When reference in the compact is made to the licensing authority in this state, the reference applies to the Department of Transportation.

(4) In accordance with subdivision (c) of Article IV of the compact, the following offenses or violations provided by Oregon law hereby are designated as offenses or violations of a substantially similar nature as the respective denominations and descriptions of conduct appearing in subdivision (a) of Article IV of the compact:

(a) ORS 809.409 (1) and (2) - Article IV (a) (1).

(b) ORS 813.400 - Article IV (a) (2).

(c) ORS 809.409 (4) - Article IV (a) (3).

(d) ORS 809.409 (3) - Article IV (a) (4).

(5) Offenses or violations other than those referred to in subsection (4) of this section reported to the department pursuant to Article III of the compact shall be given effect within the purpose of Article IV (b) of the compact as the other laws of this state provide. [1983 c.338 §169; 2003 c.402 §11; 2018 c.76 §22]

802.560 Multistate Highway Transportation Agreement. The Multistate Highway Transportation Agreement is hereby enacted into law and entered into on behalf of this state with all other jurisdictions legally joining therein in a form substantially as follows:

ARTICLE I
FINDINGS AND PURPOSES

SECTION 1. Findings. The participating jurisdictions find that:

(a) The expanding regional economy depends on expanding transportation capacity;

(b) Highway transportation is the major mode for movement of people and goods in the western states;

(c) Uniform application in the west of more adequate vehicle size and weight standards will result in a reduction of pollution, congestion, fuel consumption and related transportation costs, which are necessary to permit increased productivity;

(d) A number of western states, already having adopted substantially the 1964 Bureau of Public Roads recommended vehicle size and weight standards, still find current federal limits more restrictive; and

(e) The participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety.

SECTION 2. Purposes. The purposes of this agreement are to:

(a) Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.

(b) Establish a system authorizing the operation of vehicles traveling between two (2) or more participating jurisdictions at more adequate size and weight standards.

(c) Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement.

(d) Secure uniformity insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.

(e) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this article.

(f) Facilitate communication among legislators, state transportation administrators and commercial industry representatives in addressing the emerging highway transportation issues in participating jurisdictions.

ARTICLE II

DEFINITIONS

SECTION 1. As used in this agreement:

(a) "Cooperating committee" means a body composed of the designated representatives from the participating jurisdictions.

(b) "Designated representative" means a legislator authorized to represent the jurisdiction appointed by the President of the Senate and the Speaker of the House of Representatives in consultation.

(c) "Jurisdiction" means a state of the United States or the District of Columbia.

(d) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two or more participating jurisdictions.

ARTICLE III

GENERAL PROVISIONS

SECTION 1. Qualifications for Membership. Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

SECTION 2. Cooperation. The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

SECTION 3. Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section hereof.

SECTION 4. Vehicle Laws and Regulations. This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or regulations thereof.

SECTION 5. Interpretation. The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.

SECTION 6. Amendment. This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to the requirements of section 4, Article III. Any amendment shall be placed in writing and become a part hereof.

SECTION 7. Restrictions, Conditions or Limitations. Any jurisdiction entering this agreement shall provide each other participating jurisdiction with a list of any restriction, condition or limitation on the general terms of this agreement, if any.

SECTION 8. Additional Jurisdictions. Additional jurisdictions may become members of this agreement by signing and accepting the terms of the agreement.

ARTICLE IV

COOPERATING COMMITTEE

SECTION 1. Each participating jurisdiction shall have two designated representatives. Pursuant to section 2, Article III, the designated representatives of the participat-

ing jurisdictions shall constitute a committee which shall have the power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in relation to vehicle size and weight related matters.

(b) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight or related matter when, in their collective judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Recommend changes in law or policy with emphasis on compatibility of laws and uniformity of administrative rules or regulations which would promote effective governmental action or coordination in the field of vehicle size and weight related matters.

(d) Recommend improvements in highway operations, in vehicular safety and in state administration of highway transportation laws.

(e) Perform functions necessary to facilitate the purposes of this agreement.

SECTION 2. Each designated representative of a participating jurisdiction shall be entitled to one (1) vote. No action of the committee shall be approved unless a majority of the total number of votes cast by the designated representatives of the participating jurisdictions are in favor thereof.

SECTION 3. The committee shall meet at least once annually and shall elect, from among its members, a chairman, a vice-chairman and a secretary.

SECTION 4. The committee shall submit annually to the legislature of each participating jurisdiction a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable.

ARTICLE V

OBJECTIVES OF THE PARTICIPATING JURISDICTIONS

SECTION 1. Objectives. The participating jurisdictions hereby declare that:

(a) It is the objective of the participating jurisdictions to obtain more efficient and more economical transportation by motor vehicles between and among the participating jurisdictions by encouraging the adoption of standards that will, as minimums, allow the operation on all State highways, except those determined through engineering evaluation to be inadequate, with a single-axle weight of 20,000 pounds, a tandem-axle weight of 34,000 pounds, and a gross vehicle or combination weight of that resulting from application of the formula:

$$W = 500\,((LN/N - 1) + 12N + 36)$$

where W = maximum weight in pounds carried on any group of two or more axles computed to nearest 500 pounds.

L = distance in feet between the extremes of any group of two or more consecutive axles.

N = number of axles in group under consideration.

(b) It is the further objective of the participating jurisdictions that the operation in interstate commerce of a vehicle or combination of vehicles that exceeds statutory maximum weights or statutory maximum lengths be authorized under special permit authority by each participating jurisdiction.

(c) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle or combination of vehicles between and among the participating jurisdictions under the provisions of subsection (a) or (b) of this section, and to that end the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight related matters including, but not limited to, the development of: uniform enforcement procedures; additional vehicle size and weight standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules and regulations for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; and such other matters as may be pertinent.

(d) It is the further objective of the participating jurisdictions to authorize the cooperating committee to recommend that the participating jurisdictions jointly secure congressional approval of this agreement and, specifically, of the vehicle size and weight standards set forth in subsection (a) of this section.

(e) It is the further objective of the participating jurisdictions to:

(1) Establish transportation laws and regulations to meet regional economic needs and to promote an efficient, safe and consistent transportation network;

(2) Develop standards that facilitate the most efficient and environmentally sound operation of vehicles on highways consistent with and in recognition of principles of highway safety; and

(3) Establish programs to increase productivity and reduce congestion, fuel consumption and related transportation costs and enhance air quality through the uniform

application of state vehicle regulations and laws.

(f) It is the further objective of the participating jurisdictions that in carrying out subsection (e) of this section, the participating jurisdictions shall give priority to ensuring the long term financial stability of the highway infrastructure, considering the net benefits across all modes and all segments of industry and society and not focusing on incremental changes where there is no long term guiding policy.

ARTICLE VI

ENTRY INTO FORCE AND WITHDRAWAL

SECTION 1. This agreement shall enter into force when enacted into law by any two (2) or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in section 8, Article III.

SECTION 2. Any participating jurisdiction may withdraw from this agreement by canceling the same but no such withdrawal shall take effect until thirty (30) days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all other participating jurisdictions.

ARTICLE VII

CONSTRUCTION AND SEVERABILITY

SECTION 1. This agreement shall be liberally construed so as to effectuate the purposes thereof.

SECTION 2. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction or the applicability thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the jurisdictions affected as to all severable matters.

ARTICLE VIII

FILING OF DOCUMENTS

SECTION 1. A copy of this agreement, its amendments, and rules or regulations promulgated thereunder and interpretations thereof shall be filed in the highway department in each participating jurisdiction and shall be made available for review by interested parties.

ARTICLE IX

EXISTING STATUTES NOT REPEALED

SECTION 1. All existing statutes prescribing weight and size standards and all existing statutes relating to special permits shall continue to be of force and effect until amended or repealed by law.

ARTICLE X

STATE GOVERNMENT DEPARTMENTS AUTHORIZED TO COOPERATE WITH COOPERATING COMMITTEE

SECTION 1. Within appropriations available therefor, the departments, agencies and officers of the government of this state shall cooperate with and assist the cooperating committee within the scope contemplated by Article IV, section 1(a) and (b) of the agreement. The departments, agencies and officers of the government of this state are authorized generally to cooperate with said cooperating committee.

[1983 c.338 §172; 1985 c.172 §5; 2001 c.610 §1]

802.565 Participation by department and payment of fees. The Director of Transportation shall:

(1) Appoint an employee of the Department of Transportation to participate in meetings held by the cooperating committee created pursuant to the Multistate Highway Transportation Agreement under ORS 802.560.

(2) Pay any membership fee required by the Multistate Highway Transportation Agreement from funds appropriated to the department. [2011 c.629 §5]

Note: 802.565 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

802.570 Compensation and reimbursement for legislative representative under Multistate Highway Transportation Agreement. A legislator who is a designated representative under ORS 802.560 is entitled to compensation and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly. [1987 c.879 §21; 2001 c.610 §2]

AGREEMENTS WITH PRIVATE CONTRACTORS

802.600 Agreements to transact department business; fees; rules. (1) The Department of Transportation may enter into an agreement with any person who is not an employee of the department, including but not limited to an integrator, enabling the person to transact on behalf of the depart-

ment the following functions of the department:

(a) Any vehicle-related transaction for which the department is responsible.

(b) Processing of fees or taxes for a vehicle-related transaction for which the department is responsible.

(c) Written and skills testing for driver licenses and permits, including commercial driver licenses.

(2) An agreement described in subsection (1) of this section may be in any form and may contain any provisions that the department determines to be in the best interests of the public and convenient for the department, including but not necessarily limited to provisions that allow the department to:

(a) Ensure product quality control.

(b) Audit activities of the person entering into the agreement to ensure compliance with the agreement.

(c) Impose sanctions on a person for violation of the agreement.

(3) A person authorized to transact business for the department under this section, including but not limited to a person who transacts business under contract with an integrator, may charge a fee for the services provided. Fees authorized under this subsection are in addition to any charges or fees that the department is authorized by statute to collect for the transaction.

(4)(a) The department may adopt such rules as are necessary to carry out the provisions of this section, including but not limited to rules that:

(A) Specify criteria for eligibility of a person to enter into an agreement with the department under this section.

(B) Specify the manner in which fees authorized by this section will be collected and establish any notification the person is required to give the public about the fees.

(C) Require a bond in an amount determined by the department from a person acting under an agreement described in this section.

(D) Prohibit disclosure of personal information from driver or vehicle records except in accordance with applicable laws.

(b) The department may not adopt rules establishing the amount of a fee to be charged by a person acting under this section.

(c) Rules adopted under this subsection shall be developed in consultation with persons who might enter into agreements with the department under this section, including but not limited to integrators and vehicle dealers.

(5) As used in this section, "integrator" means a person who enters into a contract with the Department of Transportation:

(a) To provide information and supplies to a person who transacts business for the department under an agreement described in this section; and

(b) To collect moneys due from persons who transact the business and remit the moneys to the department. [1997 c.583 §2; 1999 c.59 §235; 2005 c.375 §2; 2015 c.708 §4; 2017 c.157 §1]

Chapter 803

2019 EDITION

Vehicle Title and Registration

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TITLES

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803.010 Proof of ownership. A certificate of title is prima facie evidence of the ownership of a vehicle or of an interest therein. In all actions, suits or criminal proceedings, when the title to or right of possession of any vehicle is involved, proof of the ownership or right to possession shall be made by means of:

(1) The original certificate of title issued by the Department of Transportation;

(2) A salvage title certificate issued by the department; or

(3) The department records as provided under ORS 802.240. [1983 c.338 §174; 1991 c.873 §29]

803.012 Rules for title forms and fees. (1) The Department of Transportation may adopt rules authorizing different forms of title and specifying the uses of the different forms. The rules may include, but need not be limited to, rules authorizing and describing uses of electronic titles and certificates of title.

(2) Rules adopted under this section may require or allow different forms of title for different purposes or for different persons.

(3) Rules adopted under this section may include fee structures that vary for different forms of title but in no case may the department charge more than the fees established for similar title transactions under ORS 803.090. [1993 c.233 §6]

803.015 Certificate contents. The Department of Transportation shall design a certificate of title for vehicles for situations in which the department determines that certificates will be issued. A certificate of title issued by the department shall conform to all of the following:

(1) The certificate shall be numbered in a manner prescribed by the department.

(2) The certificate shall contain a description of the vehicle.

(3) The certificate shall contain evidence of identification of the vehicle the department deems proper.

(4) The certificate shall contain the name of the owner of the vehicle.

(5) The certificate shall identify any security interest holders in the order of their priority. This subsection does not apply to the security interests where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale or lease.

(6) The certificate shall identify any lessor of the vehicle.

(7) The certificate shall be authenticated by a seal of the State of Oregon printed on the certificate.

(8) The certificate shall have space to fill in information required by the department upon the transfer of a vehicle under ORS 803.094 and space for the odometer disclosure required on transfer of an interest under ORS 803.102.

(9) If the vehicle is an assembled vehicle, the certificate shall:

(a) Show the make of the vehicle as "assembled."

(b) Show the year the building of the vehicle is completed as the year model of the vehicle.

(10) The certificate shall show the mileage of the vehicle as reported to the department at the time the most recent title transfer was reported to the department, or the mileage reported to the department at the time the vehicle was initially titled in Oregon, whichever occurred last. The information required by this subsection shall be shown as reported to the department on odometer disclosure reports required by law to be submitted to the department.

(11) The certificate shall contain any brand or notation specified by the department by rule.

(12) The certificate shall contain any other information required by the department.

(13) The certificate shall be produced by a secure process that meets or exceeds the requirements of federal law. [1983 c.338 §175; 1985 c.16 §58; 1985 c.251 §14; 1985 c.253 §1; 1985 c.402 §6; 1987 c.127 §1; 1989 c.148 §8; 1991 c.820 §9; 1991 c.873 §7; 1993 c.233 §14; 2001 c.293 §1; 2001 c.445 §183; 2003 c.330 §1]

803.016 Titles in form other than certificate. If title to a vehicle is not to be issued in the form of a certificate, the record of title kept by the Department of Transportation shall include all information required by ORS 803.015. Nothing in this section requires that title issued in a form other than a certificate:

(1) Be numbered as required by ORS 803.015 (1);

(2) Be authenticated as required by ORS 803.015 (7);

(3) Have the space required by ORS 803.015 (8); or

(4) Be produced by a secure process as required by ORS 803.015 (13). [1993 c.233 §16; 2001 c.293 §2; 2003 c.330 §3]

803.020 [1985 c.251 §14a; repealed by 1991 c.873 §53]

803.025 Violating title requirements; penalty. (1) A person commits the offense of violating vehicle title requirements if the

person owns or operates any vehicle in this state for which this state has not issued title.

(2) Exemptions from this section are established by ORS 803.030. The exemptions are subject to ORS 803.040.

(3) The offense described in this section, violating vehicle title requirements, is a Class D traffic violation. [1983 c.338 §176; 1985 c.16 §59; 1985 c.333 §4; 1993 c.233 §17; 1995 c.383 §35]

803.030 Exemptions from title requirement. This section establishes exemptions from the requirements under ORS 803.025 to obtain title issued by this state. The exemptions are subject to ORS 803.040. The exemptions are in addition to any exemptions under ORS 801.026. Vehicles exempted by this section from the requirements to be titled by this state are not prohibited from being titled by this state if titling is permitted under ORS 803.035. The exemptions are partial or complete as provided in the following:

(1) Title from this state is not required for a vehicle unless the vehicle is operated on a highway in this state.

(2) Title from this state is not required unless a vehicle is operated under a registration number of this state.

(3) Snowmobiles and Class I, Class III and Class IV all-terrain vehicles are not subject to the requirements under ORS 803.025. The requirements and procedures for titling snowmobiles are as provided under ORS 821.060 and 821.070.

(4) Road rollers, farm tractors and traction engines are exempt from the requirements for title.

(5) Trolleys are exempt from the requirements for title.

(6) Bicycles are exempt from the requirements for title.

(7) United States Government owned and operated motor vehicles and trailers are exempt from the requirements for title.

(8) Implements of husbandry, well drilling machinery, emergency fire apparatus providing public fire protection and wheelchairs are exempt from the requirements for title.

(9) Except as provided in subsection (23) of this section, fixed load vehicles are exempt from the requirements for title while operated within the immediate construction project, as described in the governmental agency contract, in the construction or reconstruction of state or county roads, highways or city streets.

(10) Motor vehicles designed to operate at a loaded weight over 8,000 pounds, trailers and equipment are exempt from requirements for title while:

(a) Owned, leased, contracted or requisitioned by the State Forester, State Board of Forestry, their contractors under ORS chapter 477, or the federal government; and

(b) Being used for the purposes of forest protection and fire suppression under ORS chapter 477 or a similar federal statute, including movement of the vehicles to and from the work area.

(11) Farm trailers are exempt from requirements for title when the operation or movement of the vehicle upon the highways is incidental to its use in an agricultural operation.

(12) Golf carts operated under an ordinance adopted under ORS 810.070 are exempt from requirements for title.

(13) Golf carts or similar vehicles are exempt from requirements for title when:

(a) They have not less than three wheels in contact with the ground;

(b) They have an unloaded weight of less than 1,300 pounds;

(c) They are designed to be and are operated at not more than 15 miles per hour; and

(d) They are operated by persons with disabilities.

(14) The nonresident owners of vehicles currently registered and titled in any other country, state or territory may operate such vehicles over the highways of this state without complying with the titling requirements under ORS 803.025. All of the following apply to this subsection:

(a) This subsection only provides an exemption so long as the owner satisfactorily shows that the owner is not a resident of this state or has been a resident of this state for less than 30 days. For the purpose of this paragraph, a person is a resident of this state if the person meets the residency requirements described in ORS 803.200.

(b) The exemption under this subsection applies to vehicles granted exemptions under ORS 802.500, 802.520 or 826.005, unless otherwise provided under paragraph (c) of this subsection.

(c) Except as otherwise provided in this paragraph, a vehicle operated over the highways of this state for compensation or profit must comply with the titling requirements under ORS 803.025 in the same manner as required of nontitled vehicles. The following vehicles are not subject to this paragraph:

(A) Vehicles operated under reciprocal registration exemptions established under ORS 802.500 or 826.005.

(B) Vehicles operated under an exemption established under ORS 802.520.

(C) Vehicles that are proportionally registered under an agreement established under ORS 826.007, and according to the procedures established under ORS 826.009 or 826.011.

(D) Any vehicle if duly registered and titled under the laws of the state or country of which the owner is a bona fide resident to the extent that in the foreign country, state, territory or federal district where the owner resides like exemptions and privileges are granted vehicles duly registered and titled under the laws of this state and owned by residents of this state.

(d) If no exemptions from titling requirements are in effect under ORS 802.500, 802.520, 826.005 or 826.007 with respect to another jurisdiction, any vehicle properly registered and titled in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdictions to vehicles properly registered and titled in this state. Reciprocity extended under this paragraph shall apply to commercial vehicles only when engaged exclusively in interstate commerce.

(e) Any vehicle operated under dealer registration plates issued by another state, country, province, territory or the District of Columbia is subject to this subsection.

(15) Vehicle dealers issued certificates under ORS 822.020 may use and operate untitled vehicles as provided under ORS 822.040.

(16) Towing businesses issued certificates under ORS 822.205 may tow untitled vehicles as provided under ORS 822.210.

(17) Vehicle transporters issued certificates under ORS 822.310 may transport untitled vehicles as provided in ORS 822.310.

(18) Untitled vehicles may be operated under trip permits described under ORS 803.600 or under permits described under ORS 803.610 to 803.625.

(19) Vehicles that are registered by the United States Department of State and that are owned or operated by foreign nationals with diplomatic immunity are exempt from the requirements for title.

(20)(a) Vehicles that are registered under the proportional registration provisions of ORS chapter 826 and are titled in a jurisdiction other than Oregon are exempt from the requirements for title.

(b) A trailer that is registered under the proportional registration provisions of ORS chapter 826 and titled in a jurisdiction other than Oregon shall remain exempt from the requirements for title in Oregon if the trailer is registered when the other jurisdiction removes its exception to proportional registration requirements for the trailer.

(21) Converter dollies and tow dollies are exempt from the requirements for title.

(22) Electric personal assistive mobility devices are exempt from the requirements for title.

(23) Road machinery that is operated at the direction of a road authority is exempt from the requirements for title. The exemption under this subsection also applies when the operation of road machinery upon a highway or an alley is incidental to its use in a highway maintenance operation.

(24) Special mobile equipment is exempt from the requirements for title. [1983 c.338 §177; 1985 c.16 §60; 1985 c.333 §5; 1985 c.401 §1; 1985 c.459 §3; 1985 c.668 §6; 1987 c.25 §1; 1989 c.43 §17; 1989 c.991 §24; 1991 c.284 §13; 1991 c.459 §438f; 1991 c.477 §1; 1993 c.233 §18; 1995 c.774 §10; 1999 c.361 §1; 1999 c.977 §18; 2001 c.827 §1; 2003 c.341 §3; 2003 c.655 §99; 2007 c.70 §324; 2007 c.845 §1; 2009 c.91 §3; 2011 c.360 §13; 2012 c.12 §22]

803.035 Optional titling; rules. (1) The Department of Transportation, by rule, may provide for optional titling of vehicles that are not subject to the vehicle titling requirements under ORS 803.025 or that are exempt from vehicle titling requirements by ORS 803.030. The rules adopted for purposes of this subsection may provide for the titling of categories of vehicles, types of vehicles or otherwise. Upon request of an owner, the department may issue title for a vehicle that meets the requirements of rules adopted under this section.

(2) A vehicle that is issued title under this section is subject to the same provisions, conditions, fees and other requirements for titling as are other vehicles under the vehicle code and is subject to ORS 803.040. [1985 c.333 §2; 1993 c.233 §19]

803.036 Optional titling; park model recreational vehicles; rules. (1) As used in this section:

(a) "Mobile home park" has the meaning given that term in ORS 446.003.

(b) "Park model recreational vehicle" means a recreational vehicle, as defined in ORS 174.101, that:

(A) Is designed for use as temporary living quarters;

(B) Is built on a single chassis mounted on wheels;

(C) Has a gross trailer area that does not exceed 400 square feet;

(D) Is more than eight and one-half feet wide;

(E) Complies with any manufacturing standards that the Director of Transportation recognizes as being in widespread use and

applicable to park model recreational vehicles; and

(F) Meets any other requirements imposed by the director by rule.

(2) The Department of Transportation, by rule, may provide for optional titling under ORS 803.035. The department may not issue a registration for a park model recreational vehicle.

(3) The department may require an applicant for optional titling to:

(a) Provide a manufacturer certificate or other information the department deems adequate for ensuring that the vehicle was constructed in compliance with manufacturing standards described in subsection (1)(b)(E) of this section; and

(b) Attest that the vehicle:

(A) Is not permanently affixed to land for use as a permanent dwelling; or

(B) Is located within a mobile home park. [2019 c.585 §2; 2019 c.585 §2a]

803.040 Effect of title. (1) If this state has issued title for a vehicle, the vehicle shall remain titled by this state and subject to all of the provisions of the vehicle code relating to vehicles titled by this state until one of the following occurs:

(a) The vehicle becomes legally titled under the laws of another jurisdiction.

(b) The owner of the vehicle establishes that the vehicle is no longer subject to the vehicle titling requirements under the vehicle code by a method recognized or established by the Department of Transportation.

(c) A salvage title is issued for the vehicle.

(2) Subsection (1) of this section applies to a vehicle issued title by this state even if one of the following applies to the vehicle:

(a) At some time after issuance of the title by this state, the vehicle becomes eligible for an exemption from titling requirements under ORS 803.030 or for any other reason.

(b) The issuance of the title was permissive under ORS 803.035.

(c) The vehicle is not required to comply with vehicle titling provisions of the vehicle code for any reason. [1985 c.333 §3; 1991 c.873 §30; 1993 c.233 §20]

803.045 Issuance of title; rules. (1) The Department of Transportation shall issue title for a vehicle if the applicant and the vehicle meet the following qualifications:

(a) The applicant must satisfy the department that the applicant is the owner of the vehicle and is otherwise entitled to have title issued in the applicant's name.

(b) Except as otherwise provided in ORS 803.050 (2), the applicant must submit a completed and signed application for title described in ORS 803.050.

(c) The applicant must pay the fee for issuance of a certificate of title under ORS 803.090 or the fee for issuance of title in another form, as established by the department by rule in accordance with ORS 803.012.

(d) If the vehicle is a reconstructed vehicle or an assembled vehicle, the applicant must provide the following information in addition to any other information required under this section:

(A) The certificate of title last issued for the frame of the vehicle, a salvage title certificate issued for the vehicle or other evidence of ownership satisfactory to the department.

(B) Bills of sale for major components used to build the vehicle.

(e) If the vehicle is covered by an Oregon title or salvage title certificate, the applicant shall surrender the Oregon title or salvage title certificate, submit an application as provided under ORS 803.065 or submit other evidence of ownership satisfactory to the department.

(f) Unless the department adopts rules to the contrary, if the vehicle is from another jurisdiction, the applicant shall surrender to the department with the application the certificate of title issued by the other jurisdiction, if such jurisdiction requires certificates of title. If such jurisdiction does not require certificates of title, then the applicant shall surrender the registration cards.

(g) If required by the department, the applicant must submit proof of ownership as described under ORS 803.205.

(h) Other than a racing activity vehicle as defined in ORS 801.404, if the department has reason to believe a vehicle was not certified by the original manufacturer as conforming to federal vehicle standards, the department may require the applicant to provide proof satisfactory to the department that the vehicle conforms to federal vehicle standards.

(i) Unless the vehicle is exempted from odometer disclosure requirements, the applicant shall submit an appropriate odometer disclosure form. The department shall determine what constitutes an appropriate form in any particular situation. The department may make exceptions by rule to the requirement for submission of an odometer disclosure form.

(2) The department may not issue title for a vehicle:

(a) Required by ORS 803.210 to be inspected unless the vehicle has been inspected as described in ORS 803.212 and the inspection fee paid under ORS 803.215.

(b) If the current vehicle title, certificate, ownership document or the vehicle record available through electronic record inquiry:

(A) Has a junk status;

(B) Is a junk title, junk certificate or similar ownership document issued by another jurisdiction; or

(C) Has a junk or similar brand or notation.

(c) As prescribed in ORS 803.591.

(3) The department may adopt any rules it considers necessary for the administration of subsection (2)(a) and (b) of this section. [1983 c.338 §178; 1985 c.16 §61; 1985 c.402 §7; 1985 c.410 §1; 1987 c.146 §5; 1989 c.148 §9; 1991 c.873 §8; 1993 c.233 §21; 2001 c.675 §7; 2003 c.24 §1; 2003 c.655 §100; 2007 c.693 §4; 2019 c.312 §18; 2019 c.645 §8]

803.050 Application; contents. (1) An application for title required under ORS 803.045 shall be in a form specified by the Department of Transportation and shall contain all the following:

(a) A full description of the vehicle, including, but not necessarily limited to, the vehicle identification number.

(b) The name of the owner of the vehicle or other person whose name is to be shown on the title.

(c) The identity of any security interests in order of priority.

(d) The identity of the interest of any lessor.

(e) A disclosure of whether the vehicle is a replica or is specially constructed, reconstructed or assembled. If the title and registration records of the department already indicate that a vehicle is a replica or is specially constructed, reconstructed or assembled, disclosure under this subsection is not required unless the vehicle has been changed since title for the vehicle was last transferred.

(f) If the title application shows a leasehold interest, the lessor shall designate whether the lessor or the lessee is to be shown on the title as the owner of the vehicle.

(g) Any other information required by the department.

(2) Notwithstanding subsection (1) of this section, the department may accept an application that does not contain everything required by this section if the department is satisfied as to the ownership of the vehicle. [1983 c.338 §180; 1985 c.16 §62; 1985 c.251 §15; 1985 c.300 §1; 1985 c.402 §8a; 1987 c.750 §3a; 1989 c.148 §10; 1991 c.551 §2; 1991 c.873 §9; 1993 c.233 §22]

803.053 Expedited titling; vehicle dealers; rules; fee. (1) At the request of a vehicle dealer, the Department of Transportation shall provide expedited titling services if the vehicle dealer pays the fee imposed under this section. A request under this section must be made in the manner required by the department. The department shall adopt rules establishing criteria and procedures for providing expedited titling services under this section.

(2) The fee for providing an expedited title under this section is $100. [2014 c.14 §2]

Note: 803.053 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

803.055 Delivery of evidence of title; rules. (1) When a certificate of title is issued by this state, the Department of Transportation shall deliver the certificate as follows unless otherwise provided by law:

(a) To the security interest holder with the highest priority.

(b) If there are no security interest holders, to the lessor.

(c) If there are no security interest holders or lessors, to the owner of the vehicle.

(2) When a salvage title certificate is issued by this state, the department shall deliver the certificate to the owner of the vehicle.

(3) The department may determine by rule whether, when, how and to whom titles issued in a form other than a certificate shall be delivered. [1983 c.338 §181; 1985 c.16 §63; 1991 c.873 §31; 1993 c.233 §23]

803.060 Renewal. A title does not require a renewal and is valid until one of the following occurs:

(1) The vehicle is destroyed or dismantled.

(2) Any interest reflected on the title changes. [1983 c.338 §182; 1985 c.316 §1; 1993 c.233 §24; 2019 c.17 §5]

803.065 Duplicate or replacement certificate; fee; application; rules. (1) The Department of Transportation may issue a duplicate or replacement certificate of title when all of the following occur:

(a) The department is satisfied as to the loss, mutilation or destruction of a certificate of title or salvage title certificate.

(b) The fee for issuance of a duplicate or replacement certificate of title or for a salvage title certificate established under ORS 803.090 is paid.

(2) The department may accept an application for a duplicate or replacement title certificate at the time of any transfer of a

vehicle under ORS 803.092. The following apply to this subsection:

(a) The department shall only accept the application if, at the time of transfer, the title certificate is lost, mutilated or destroyed.

(b) When the department accepts an application, the department may accept proof of transfer other than the certificate of title or may accept a certificate of title that has not been completed along with other proof of transfer for purposes of transferring a vehicle under ORS 803.092. The department may accept any proof of transfer under this paragraph that establishes to the satisfaction of the department that the vehicle has been transferred including, but not limited to, statements of release of interest, bills of sale, assignments of interest or other similar proof.

(c) If an application is made under this subsection, the fee for duplicate or replacement title certificate under ORS 803.090 shall be paid in addition to the transfer fee under ORS 803.090.

(d) The department may include the form for application under this subsection as part of the form for transfer of a vehicle or may make the forms separate, as the department finds convenient.

(e) The department is not required by this subsection to issue a duplicate or replacement title before transfer, but may withhold issuance of title until new title is issued upon completion of transfer.

(f) The department may adopt rules to establish procedures and requirements for effecting a transfer under ORS 803.092 when application is made under this subsection at the same time. [1983 c.338 §183; 1985 c.174 §1; 1985 c.300 §2; 1989 c.148 §11; 1991 c.873 §10]

(Offenses)

803.070 False statement in application or assignment; penalty. (1) A person commits the offense of false statement on title or transfer of vehicle if the person knowingly makes any false statement of a material fact in an application for title to a vehicle, in an application for salvage title for a vehicle or in any assignment of title to a vehicle.

(2) The offense described in this section, false statement on title or transfer of vehicle, is a Class A misdemeanor. [1983 c.338 §184; 1985 c.393 §1; 1991 c.873 §32; 1993 c.233 §25; 1993 c.751 §21]

803.075 False swearing prohibited; penalty. (1) A person commits the offense of false swearing relating to titling of vehicles if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the titling of vehicles under the vehicle code. For purposes of this section, "titling of vehicles" includes, but is not necessarily limited to, matters and things related to salvage titles for vehicles issued by the Department of Transportation.

(2) Penalties relating to submitting a false odometer reading relating to the titling of a vehicle shall be as provided under ORS 815.430.

(3) The offense described in this section, false swearing relating to titling of vehicles, is a Class A misdemeanor. [1983 c.338 §185; 1985 c.251 §16; 1985 c.393 §2; 1991 c.873 §33; 1993 c.233 §26; 1993 c.751 §22]

803.080 Unlawfully publishing certificate of title forms prohibited; penalty. (1) A person commits the offense of unlawfully publishing certificate of title forms if the person produces in any way, or causes to be produced, without the authority of the Department of Transportation, facsimiles of the blank forms upon which the department issues certificates of title or salvage title certificates.

(2) The offense described in this section, unlawfully publishing certificate of title forms, is a Class C felony. [1983 c.338 §186; 1991 c.873 §34]

803.085 Selling untitled vehicle prohibited; penalty. (1) A person commits the offense of selling an untitled vehicle if the person sells a vehicle without complying with the requirements under ORS 803.025 and 803.045 to obtain a title for the vehicle or the requirements of ORS 819.016 to obtain a salvage title for the vehicle, as appropriate.

(2) The offense described in this section, selling an untitled vehicle, is a Class A misdemeanor. [1983 c.338 §187; 1985 c.393 §3; 1991 c.873 §35; 1993 c.233 §27]

(Fees)

803.090 Fees for certificate of title. (1) Except as provided in subsection (2) of this section, the fee to issue a certificate of title under ORS 803.045 or 803.140, to transfer title under ORS 803.092, to issue a duplicate or replacement certificate of title under ORS 803.065 or to issue a new title due to name or address change under ORS 803.220 is as follows:

(a) For a salvage title, $27.

(b) For a vehicle title for trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, $90.

(c) For a vehicle title for vehicles other than those vehicles described in paragraph (b) of this subsection, $77.

(2) If an application for a duplicate or replacement certificate of title is filed at the

same time as an application for a transfer of title for the same vehicle, the applicant is required to pay only the transfer of title fee.

(3) The fee for late presentation of certificate of title under ORS 803.105 is $25 from the 31st day after the transfer through the 60th day after the transfer and $50 thereafter.

(4) The fees for title transactions involving a form of title other than a certificate shall be the amounts established by the Department of Transportation by rule under ORS 803.012. [1983 c.338 §188; 1985 c.16 §64; 1985 c.174 §2; 1985 c.300 §3; 1985 c.315 §1; 1987 c.790 §1; 1989 c.148 §12; 1991 c.873 §11; 1993 c.233 §28; 2001 c.669 §7; 2001 c.675 §8; 2003 c.161 §1; 2003 c.618 §1; 2003 c.655 §101; 2009 c.865 §42; 2017 c.750 §39a]

803.091 Title fees based on miles per gallon. (1) As used in this section, "miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.

(2) The Department of Transportation shall determine the combined MPG ratings for each motor vehicle pursuant to a method determined by the department.

(3) In addition to the title fees prescribed under ORS 803.090 (1)(c), during the period beginning on January 1, 2018, and ending on December 31, 2019, there shall be paid an additional amount of $16.

(4) In addition to the title fees prescribed under ORS 803.090 (1)(c), during the period beginning on January 1, 2020, and ending on December 31, 2021, there shall be paid an additional amount as follows:

(a) For vehicles that have a rating of 0-19 MPG or nonmotorized vehicles, $21.

(b) For vehicles that have a rating of 20-39 MPG, $26.

(c) For vehicles that have a rating of 40 MPG or greater, $36.

(d) For electric vehicles, $110. [2017 c.750 §37]

Note: The amendments to 803.091 by section 38, chapter 750, Oregon Laws 2017, become operative January 1, 2022, and apply to fees imposed on or after January 1, 2022. See section 39, chapter 750, Oregon Laws 2017, and section 139, chapter 750, Oregon Laws 2017, as amended by section 31, chapter 93, Oregon Laws 2018. The text that is operative on and after January 1, 2022, is set forth for the user's convenience.

803.091. (1) As used in this section, "miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.

(2) The Department of Transportation shall determine the combined MPG ratings for each motor vehicle pursuant to a method determined by the department.

(3) In addition to the title fees prescribed under ORS 803.090 (1)(c), there shall be paid an additional amount as follows:

(a) For vehicles that have a rating of 0-19 MPG or nonmotorized vehicles, $24.

(b) For vehicles that have a rating of 20-39 MPG, $29.

(c) For vehicles that have a rating of 40 MPG or greater, $39.

(d) For electric vehicles, $115.

Note: 803.091 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

(Transfer of Title or Interest)

803.092 Application for title upon transfer of interest; when and by whom required; exceptions. (1) Except as otherwise provided in this section, upon the transfer of any interest in a vehicle covered by an Oregon title the transferee shall submit an application for title to the Department of Transportation. Such application shall be submitted to the department within 30 days of the date of transfer of interest.

(2) Notwithstanding subsection (1) of this section, application is not required under this section when:

(a) The change involves only a change in the security interest where the security interest holder or lessor is a financial institution, a financial holding company or a bank holding company, as those terms are defined in ORS 706.008, a licensee under ORS chapter 725, or any subsidiary or affiliate of any of the foregoing and the transfer of the interest of the security interest holder or lessor:

(A) Results from the merger, conversion, reorganization, consolidation or acquisition of the security interest holder or lessor;

(B) Is to an entity that is a member of the same affiliated group as the security holder or lessor; or

(C) Is made in connection with a transfer in bulk.

(b) The vehicle is transferred to a vehicle dealer and the vehicle will become part of the dealer's inventory for resale. Upon the transfer of a vehicle to a dealer, however, the dealer shall immediately notify the department of such transfer. This exemption from the requirement to apply for title does not apply if the department determines that application for title is necessary in order to comply with odometer disclosure requirements. If the department determines that application for title is not required, it may require filing of documents under ORS 803.126.

(c) The vehicle is to be titled in another jurisdiction.

(d) The vehicle has been totaled, wrecked, dismantled, disassembled, substantially altered or destroyed, in which case the

provisions of ORS 819.010, 819.012, 819.014 or 822.135 relating to notice and surrender of title documents shall be complied with.

(e) The transfer involves the creation or termination of a leasehold interest in a vehicle that is proportionally registered under ORS 826.009 or 826.011, if the department is furnished with satisfactory proof of the lease.

(3) Except as provided in subsection (2) of this section, the transferee shall:

(a) Submit an application that meets requirements for title under ORS 803.045 and 803.050 and any applicable rules of the department.

(b) Submit the title transfer fees as required under ORS 803.090.

(c) Comply with the provisions of ORS 803.065 and any applicable rules of the department under that statute and submit the duplicate or replacement title fee as provided under ORS 803.090, if the transfer includes an application for duplicate or replacement title and transfer of title.

(d) Submit an odometer disclosure containing information required by the department for the kind of transaction involved.

(e) Submit any late presentation of certificate of title fee as provided under ORS 803.090 if such fee is required under ORS 803.105.

(4) For purposes of this section:

(a) "Affiliated group" has the meaning given to the term in section 1504(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. 1504(a)).

(b) A "transfer in bulk" is:

(A) The sale or assignment of, the grant of a security interest in, or any other transfer of either a group of loans secured by vehicles, leases of vehicles or both or a participation or other interest in the group of loans;

(B) The creation of asset-backed securities or other securing of assets involving the loans or leases; or

(C) Any similar transaction involving the loans or leases. [1989 c.148 §3; 1989 c.452 §7; 1991 c.67 §212; 1991 c.820 §14; 1991 c.873 §12; 1993 c.233 §29; 1993 c.427 §1; 1997 c.631 §554; 2001 c.377 §53; 2001 c.675 §9; 2003 c.655 §102]

803.094 Release or assignment of title interest; rules; when and by whom required; exceptions. (1) Except as otherwise provided in this section, upon the transfer of any interest shown on an Oregon title any person whose interest is released, terminated, assigned or transferred, shall release or assign that interest in a manner specified by the Department of Transportation by rule. Rules adopted for purposes of this subsection shall be designed, as much as possible, to protect the interests of all parties to the transfer. If required under ORS 803.102, the person shall also complete an odometer disclosure statement.

(2) Notwithstanding subsection (1) of this section:

(a) In the case of a transfer by operation of law of any interest shown on an Oregon title, the personal representative, receiver, trustee, sheriff or other representative or successor in interest of the person whose interest is transferred shall release or assign interest and if required by the department by rule, as provided under ORS 803.102, complete an odometer disclosure statement and shall provide the certificate, if any, and disclosure statement if required to the transferee. The representative or successor shall also provide the transferee with information satisfactory to the department concerning all facts entitling such representative or successor to transfer title. If there is no person to assign interest, the person to whom interest is awarded or otherwise transferred shall be responsible for the requirements of this paragraph.

(b) In the case of a transfer at death of the interest of the owner, lessor or security interest holder if the estate is not being probated and title is not being transferred under the provisions of ORS 114.547, interest may be assigned through the use of an affidavit. The affidavit shall be on a form prescribed by the department and signed by all of the known heirs of the person whose interest is being transferred stating the name of the person to whom the ownership interest has been passed. If any heir has not arrived at the age of majority or is otherwise incapacitated, the parent or guardian of the heir shall sign the affidavit. In the case of a transfer under this paragraph, one of the heirs or any other person designated by the department by rule shall complete any odometer disclosure statement required under ORS 803.102.

(c) In the case of a transfer at death of the interest of the owner, lessor or security interest holder where transfer occurs under the provisions of ORS 114.547, the affiant as defined in ORS 114.505 is the person required to assign interest. The department may designate by rule the affiant or any other person to complete any odometer disclosure statement required under ORS 803.102.

(d) Upon the termination of a lease, in lieu of the lessee releasing interest, the lessor may provide information satisfactory to the department that the lease has been terminated. The lessor shall provide an odometer disclosure statement if required under ORS 803.102. If the lessor does not take possession of the vehicle upon termination of

the lease, the information in the odometer disclosure given by the lessor may be taken from an odometer disclosure given by the lessee to the lessor under ORS 803.102 unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(e) A security interest holder or lessor, without the consent of the owner, may assign interest of the holder or lessor in a vehicle to a person other than the owner without affecting the interest of the owner or the validity or priority of the interest. A person not given notice of such assignment is protected in dealing with the security interest holder or lessor as the holder of the interest until the assignee files in accordance with ORS chapter 79. This paragraph does not exempt such assignments from title transfer requirements.

(3) Nothing in this section requires the release or assignment of title upon the creation or termination of a leasehold interest for a vehicle that is proportionally registered under ORS 826.009 or 826.011 if the department is furnished with satisfactory proof of the lease for such vehicle.

(4) The department by rule may allow odometer disclosure statements to be on a form other than the certificate of title.

(5) Persons subject to the provisions of this section shall provide to the transferee a title certificate, if one has been issued and is in their possession, the release or assignment of interest, and any required odometer disclosure statement. If an odometer disclosure statement is required, the transferee shall provide a signed disclosure to the transferor in a form determined by the department by rule. [1989 c.148 §2; 1991 c.67 §213; 1991 c.873 §13; 1993 c.233 §30; 2001 c.675 §10; 2003 c.655 §103; 2019 c.165 §29]

803.095 [1983 c.338 §189; 1985 c.16 §65; 1985 c.251 §17; 1985 c.300 §4; 1985 c.400 §2; 1985 c.485 §5; 1987 c.750 §4; 1989 c.43 §18; repealed by 1989 c.148 §20]

803.097 Perfection of security interest in vehicle; rules. (1) Except as provided in subsection (5) of this section, the exclusive means for perfecting a security interest in a vehicle is by application for notation of the security interest on the title in accordance with this section. The application may accompany the application for a title or may be made separately at any time prior to issuance of title and must be accompanied by evidence of ownership as defined by the Department of Transportation by rule unless the department is in possession of evidence of ownership when it receives the application. If title to the vehicle has been issued in a form other than a certificate, and the title reflects a security interest, the application for perfection shall include authorization from the previous security interest holder for the new security interest to be recorded on the title. Authorization under this subsection is not required if:

(a) A release of interest is submitted by the prior security interest holder or the department is otherwise satisfied that the prior holder no longer holds an interest or is otherwise not entitled to title to the vehicle;

(b) The security interest is being added to the title in conjunction with the cancellation of previous title or other action the department takes to correct ownership information reflected on a title; or

(c) Title is being transferred by operation of law.

(2) When the department processes an application for a security interest the department shall mark on the application or otherwise indicate on the record the date the application was first received by the department. The department shall determine by rule what constitutes receipt of an application for purposes of this subsection.

(3) If the department has the evidence required by subsection (1) of this section and if the application contains the name of each owner of the vehicle, the name and address of the secured party and the vehicle identification number of the collateral, the security interest is perfected as of the date marked on the application or indicated in the record by the department. If the application does not contain the information required by this subsection, or if the department does not have the required evidence, the department shall indicate on the application or on the record that the date placed on the application or the record pursuant to subsection (2) of this section is not the date of perfection of the security interest.

(4) The security interest remains effective until released or terminated by the secured party.

(5) A security interest in a vehicle may not be perfected as described under this section but is subject to the perfection provisions under ORS chapter 79 if:

(a) The debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale or lease; or

(b) The vehicle is exempt from titling requirements under ORS 803.030. [1987 c.750 §2; 1989 c.148 §13; 1993 c.233 §31; 2001 c.445 §184; 2001 c.675 §11a; 2003 c.655 §104; 2012 c.12 §23]

803.098 Certain transactions that do not create security interest. Notwithstanding any other provision of law, in the case of motor vehicles or trailers, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted

under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer. [1993 c.646 §25]

803.100 Application of Uniform Commercial Code. (1) Except as provided in subsection (2) of this section, the rights and remedies of all persons in vehicles subject to security interests established under ORS 803.097 are determined by the provisions of the Uniform Commercial Code.

(2)(a) If perfection of a security interest in a vehicle occurs on or before 30 days after attachment of the security interest, the secured party takes priority over the rights of a transferee in bulk or a lien creditor that arise between the time the secured party's interest attaches and the time of perfection of the security interest.

(b) This subsection applies to any security interest in a vehicle that is not a purchase money security interest. [1983 c.338 §190; 1985 c.16 §66; 1989 c.148 §14; 1999 c.818 §3; 2001 c.675 §12; 2003 c.655 §105; 2005 c.261 §1]

803.102 Odometer disclosure statement upon transfer of interest; when required; rules. (1) As used in this section:

(a) "Transferee" means any person to whom ownership of a motor vehicle is transferred by purchase, gift or any other means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferee.

(b) "Transferor" means any person who transfers ownership of a motor vehicle by sale, gift or any means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferor.

(2) Except as otherwise provided in this section, upon transfer of any interest in a motor vehicle, an odometer disclosure statement shall be made by the transferor to the transferee. The disclosure shall be in a form that complies with the provisions of ORS 803.120 and shall contain the information required under ORS 803.122.

(3) If a transfer requiring a disclosure statement involves a leased vehicle, the lessor shall notify the lessee that the lessee is required to provide odometer disclosure. The lessee shall furnish the lessor with a form that complies with the requirements of ORS 803.120 and shall provide the information required by ORS 803.122 except that for purposes of the required information, the lessee shall be considered the transferor, the lessor shall be considered the transferee and the date shall be the date of the disclosure statement.

(4) Where an interest in a vehicle is transferred by operation of law, the Department of Transportation shall determine by rule whether an odometer disclosure statement is required and if so, who is required to provide it.

(5) The odometer disclosure requirements of this section do not apply upon transfer of an interest where the transfer is due solely to the creation, release or assignment of a security interest, or upon transfer of an interest in any of the following:

(a) A vehicle with a gross vehicle weight rating of more than 16,000 pounds.

(b) A vehicle that is not self-propelled.

(c) A vehicle that is at least 10 years old.

(d) A vehicle that is sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

(e) A vehicle that is exempted from the requirement by rules of the department.

(6) A person may provide an odometer reading to the department, in the manner prescribed by the department by rule, for a vehicle that is 10 years old or older. [1989 c.148 §4; 1991 c.67 §214; 1991 c.873 §1; 2013 c.659 §1]

803.103 Vehicle identification number check. (1) With every vehicle title transfer, the Department of Transportation shall check the vehicle identification number or numbers on the vehicle title or other primary ownership records against those listed as stolen by the Law Enforcement Data System. If the check indicates the vehicle is stolen, the department:

(a) Shall immediately notify the Oregon State Police or, if the department determines it would be appropriate to do so, notify another law enforcement agency; and

(b) Shall not issue title within 30 days of giving the notice required by paragraph (a) of this subsection unless the department is notified before the end of the 30 days that the vehicle is not stolen. After the passage of the 30-day period, the department may issue the title.

(2) The department may issue title to a vehicle that is listed as stolen without giving the notice required by of subsection (1)(a) of this section if the department is satisfied that the applicant for title is the person from whom the vehicle was stolen or is the insurer of that person.

(3) The department may check with the National Crime Information Center and the Law Enforcement Data System for information about vehicles in situations other than those specified in ORS 803.212 and subsections (1) and (2) of this section if the depart-

ment determines that it is appropriate to do so. [1991 c.576 §§3,4; 1993 c.233 §32]

803.105 Failure to deliver documents on transfer; late fee; penalty. (1) Except as provided in ORS 803.092, a person commits the offense of failure to deliver vehicle documents on transfer of a vehicle for which the Department of Transportation has issued a certificate of title if the person does not comply with any of the following:

(a) Upon transfer of title or any interest in a vehicle, the transferee shall present the certificate of title to the department within 30 days after the transfer. This paragraph does not apply to a vehicle dealer. If the transfer arises from the sale of a vehicle, a transferee who presents the certificate more than 30 days after the transfer shall pay the fee for late presentation of certificate of title established in ORS 803.090. However, the fee for late presentation does not apply if the transferee proves to the satisfaction of the department that:

(A) The transferee made a good faith effort to obtain title; or

(B) Failure to comply was for a reason beyond the control of the transferee.

(b) Upon transfer of title or any interest in a vehicle to a vehicle dealer, the vehicle dealer shall immediately notify the department that the vehicle has been transferred to the dealer.

(c) Upon creation of a leasehold interest in a vehicle, the lessor or holder shall present the certificate of title to the department within 30 days of the transfer. This paragraph does not apply to the creation of leasehold interests in vehicles that are proportionally registered under ORS 826.009 or 826.011.

(d) Upon termination of a leasehold interest, the lessor shall cause the certificate of title to be delivered to the department within 30 days of the termination. This paragraph does not apply to the termination of leasehold interests in commercial vehicles that are proportionally registered under ORS 826.009 or 826.011.

(e) Upon creation of a leasehold interest in vehicles that are proportionally registered under ORS 826.009 or 826.011, the lessee shall furnish the department with satisfactory proof of the lease.

(f) Upon the creation of a security interest in a vehicle where the owner or lessor is in possession of a certificate of title, the owner or lessor, if there is a lease, shall deliver the certificate to the person in whom the security interest was created. This paragraph does not apply upon the creation of a security interest where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(g) Upon the creation of a security interest in a vehicle where a prior security interest holder is in possession of the certificate of title, the owner or lessor, if there is a lease, shall either provide for the delivery of the certificate of title to the person in whom the security was created or arrange for direct delivery by the prior security interest holder to the department. This paragraph does not apply upon the creation of a security interest where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(h) Notwithstanding paragraph (a) of this subsection, upon creation of a security interest in a vehicle, a person in whom a security interest was created and who receives a certificate of title showing the interest from the person granting the security interest shall present the certificate of title to the department within 30 days after receiving the certificate of title.

(i) Within 15 calendar days of satisfaction of a security interest in a vehicle, the security interest holder affected:

(A) If in possession of the certificate of title, shall deliver the certificate of title and the release contained thereon to the security interest holder next named, if any, otherwise to the lessor or, if none, to the owner.

(B) If not in possession of the certificate of title, shall deliver a release to the person entitled thereto.

(j) Upon receipt of a release of a security interest in a vehicle by a person who is not in possession of the certificate of title, the person shall promptly deliver the release to the holder of the certificate of title. This paragraph does not apply to release of a security interest in vehicles where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(k) Notwithstanding paragraph (a) of this subsection, upon satisfaction of a security interest in a vehicle, the holder of the certificate of title and the release shall present both to the department within 30 days after the date of the release. This paragraph does not apply upon release of a security interest in vehicles where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(2) The offense described in this section, failure to deliver vehicle documents on transfer of interest in a vehicle, is a Class D traffic violation. [1983 c.338 §191; 1985 c.16 §67; 1985 c.315 §2; 1985 c.485 §4; 1987 c.750 §5; 1989 c.43 §19;

1989 c.148 §15; 1989 c.452 §5; 1991 c.284 §14; 1993 c.18 §167; 1993 c.233 §33]

803.106 Failure to deliver information on transfer of Oregon-titled vehicle for which there is no title certificate; penalty. (1) A person commits the offense of failure to deliver information on transfer of a vehicle for which the Department of Transportation has issued title in a form other than a certificate if the person does not comply with rules adopted by the department concerning the information to be delivered.

(2) Nothing in this section authorizes the department to adopt rules requiring compliance with this section by persons who would be exempt from compliance with ORS 803.105 even if they had been issued certificates of title by the department.

(3) The offense described in this section, failure to deliver information on transfer of a vehicle, is a Class D traffic violation. [1993 c.233 §35]

803.108 Effect of tax lien on transfer of vehicle. If the ownership of a motor vehicle subject to the lien provided for by ORS 319.700 is transferred, whether by operation of law or otherwise, the Department of Transportation shall not issue, to the transferee or person otherwise entitled thereto, a registration card or title with respect to such motor vehicle until the department has determined that the lien has been removed. Implements of husbandry are not subject to this section by virtue of exemption under ORS 319.520 from the lien provided for by ORS 319.700. [Formerly 803.115]

803.110 [1985 c.485 §3; repealed by 1989 c.148 §20]

(Transferor Notice)

803.112 Notice of transfer of interest in vehicle; rules; exemptions. (1) Except as otherwise provided in this section, the transferor of an interest in a vehicle covered by an Oregon title shall notify the Department of Transportation of the transfer within 10 days of the date of transfer. The notice shall be in a form determined by the department by rule.

(2) For purposes of giving notice under this section, if the transfer occurs by operation of law, the personal representative, receiver, trustee, sheriff or other representative or successor in interest of the person whose interest is transferred shall be considered the transferor.

(3) The requirements of this section do not apply upon creation, termination or change in a security interest or a leasehold interest or upon award of ownership of a motor vehicle made by court order.

(4) A vehicle dealer is exempt from the notice requirement of this section if the dealer:

(a) Transfers the vehicle to another dealer; or

(b) Submits an application for title to the vehicle on behalf of the buyer of the vehicle.

(5) Notification provided under this section is for informational purposes only and does not constitute an assignment or release of any interest in the vehicle. [1995 c.516 §2; 2003 c.121 §1]

803.113 Department action upon receipt of notice under ORS 803.112; rules. (1) Except as otherwise provided by rule of the Department of Transportation under subsection (3) of this section, upon receipt of a notification of transfer described in ORS 803.112, the department shall make a notation on its records indicating that it has received notification that an interest in the vehicle has been transferred. The notation shall be made whether or not the form submitted to the department contains all the information required by the department under ORS 803.112, so long as there is sufficient information to identify the vehicle. Thereafter, until a new title is issued, when the department is asked to provide the name of the owner of a vehicle as shown on its records, the department shall provide the name of the transferor and indicate that department records show a notification of transfer but do not show a title transfer. The department shall also provide the name of the transferee if it is shown on the form submitted by the transferor under ORS 803.112.

(2) Whenever the Oregon Vehicle Code or other statute requires notice to the owner of a motor vehicle, the person required to provide notice shall provide the notice to the current owner as shown on the records of the department and to any transferee shown as a result of notification to the department under ORS 803.112.

(3) The department may adopt rules for the implementation of ORS 803.112 and this section. Rules shall be designed to allow the department to implement ORS 803.112 and this section in a way that is efficient and convenient for the public and the department. Rules under this section may include, but need not be limited to, rules authorizing the department to remove information recorded under this section, specifying circumstances under which information submitted need not be recorded and specifying circumstances under which the department provides a receipt of notification that an interest in a vehicle has been transferred. [1995 c.516 §3; 2003 c.121 §2; 2009 c.579 §2]

803.114 Knowingly submitting false notice of transfer; penalty. (1) A person commits the offense of knowingly submitting false notice of transfer if the person submits a notice of transfer of an interest in a vehicle as described in ORS 803.112 to the Department of Transportation and the person knows that the interest in the vehicle has not been transferred.

(2) The offense described in this section, knowingly submitting false notice of transfer, is a Class C misdemeanor. [1995 c.516 §4]

803.115 [1983 c.338 §192; 1989 c.992 §30; 1993 c.233 §36; renumbered 803.108 in 1997]

803.116 Knowingly submitting false information about transfer of interest in vehicle; penalty. (1) A person commits the offense of knowingly submitting false information about transfer of a vehicle if the person submits a notice of transfer of an interest in a vehicle as described in ORS 803.112 to the Department of Transportation and the person knows that some or all of the information contained in the notice is false.

(2) The offense described in this section, knowingly submitting false information about transfer of a vehicle, is a Class C misdemeanor. [1995 c.516 §5]

803.117 Effect of notice of transfer on civil and criminal liability. A transferor who has delivered possession of a vehicle to a transferee may not, by reason of any of the provisions of the Oregon Vehicle Code, be subject to civil liability or criminal liability for the parking, abandoning or operation of the vehicle by another person when the transferor has:

(1) Notified the Department of Transportation of the transfer; and

(2) Assigned the title to the transferee. [1995 c.516 §6; 1997 c.249 §275; 2003 c.121 §3; 2009 c.579 §1]

(Odometer Disclosure)

803.120 Odometer disclosure; contents of form. (1) When an odometer disclosure is required by statute or by the Department of Transportation, or when an odometer reading is provided under ORS 803.102 (6), the disclosure or reading shall be provided in a form required by the department by rule. The department may require different forms for different situations and may require different information to be disclosed for different purposes.

(2) Any form authorized by the department for use as an odometer disclosure upon transfer of an interest in a vehicle shall refer to the federal law requiring disclosure of odometer information and shall state that failure to complete the disclosure form, or providing false information on the form, may result in a fine or imprisonment.

(3) Any form authorized by the department for use as an odometer disclosure upon transfer of an interest in a vehicle shall provide a way for the transferor to indicate, to the best of the transferor's knowledge, which of the following is true:

(a) That the odometer reading reflects the actual mileage of the vehicle;

(b) That the odometer reading reflects an amount of mileage in excess of the designed mechanical odometer limit; or

(c) That the odometer reading does not reflect actual mileage and should not be relied on.

(4) An odometer disclosure required upon transfer of an interest in a vehicle shall be made on the vehicle title unless the department provides otherwise by rule. [1991 c.873 §3; 2013 c.659 §3]

803.122 Information required; rules. (1) When an odometer disclosure is required at time of transfer of a vehicle, the transferee and the transferor shall both sign the odometer disclosure form and the transferor shall provide as much of the following as is required by the Department of Transportation by rule:

(a) The odometer reading at the time of transfer, excluding tenths of miles.

(b) The date of transfer.

(c) The transferor's name, which shall be printed, and current address.

(d) The transferee's name, which shall be printed, and current address.

(e) The identity of the vehicle, including its make, model, year and body type and the vehicle identification number.

(f) Any other information that the department determines by rule would further the purposes of the odometer disclosure requirements.

(2) In addition to providing the information required by subsection (1) of this section, the transferor shall indicate, in a manner determined by the department, which of the statements described in ORS 803.120 (3) is accurate. [1991 c.873 §4]

803.124 Rules for issuance of forms; agreements for provision of forms; fee. (1) The Department of Transportation may adopt rules providing for issuance of any forms it considers necessary or convenient for assigning or conveying interests in vehicles and any forms it considers necessary or convenient for providing required odometer disclosures. The authority granted by this section includes, but is not necessarily limited to, authority to enter into agreements

authorizing others to provide the forms authorized by this section to the public.

(2) The department may establish fees for providing forms authorized by this section. Fees shall be designed to recover the cost of producing and providing the forms. An agreement entered into by the department for the purpose of providing forms authorized by this section to the public may provide for a fee to be charged by the person providing the forms. [1991 c.873 §6]

803.126 Odometer disclosure without title application; fee. (1) The Department of Transportation by rule may allow the filing of documents related to odometer disclosure without an accompanying application for issuance or transfer of title. The department may determine situations in which such documents may be filed and what documents are acceptable.

(2) A person filing an odometer disclosure statement under this section shall pay a fee of $4. [1991 c.873 §6a]

(Transitional Ownership Records)

803.130 Purpose of record. The purpose of a transitional ownership record is to enable security interests to be perfected in a timely manner when the primary ownership record is not available. [1989 c.927 §7; 1993 c.233 §41]

803.132 Circumstances under which transitional ownership record acceptable as ownership record. A transitional ownership record is acceptable as an ownership record only if the primary ownership record is not in the possession of the selling dealer, new security interest holder or the agent of either at the time the transitional ownership record is submitted to the Department of Transportation. [1989 c.927 §8; 1993 c.233 §42; 1995 c.309 §1; 1999 c.818 §1]

803.134 Fee. A person submitting a transitional ownership record to the Department of Transportation shall pay a fee of $13 to the department. The fee shall be paid at the time of submission of the record unless the department by rule establishes alternative payment methods. [1989 c.927 §6; 1993 c.233 §43]

803.136 Mandatory rejection, return or invalidation of record by department. The Department of Transportation shall reject, return or subsequently invalidate a transitional ownership record if:

(1) More than 30 days have elapsed between the date of sale or if no sale is involved, the date the contract or security interest being perfected was signed and the date the transitional ownership record is received by the department;

(2) The transitional ownership record does not contain all of the information specified in ORS 801.562;

(3) It is determined that persons named on the transitional ownership record as having a security interest did not have a security interest on the date the transitional ownership record was received;

(4) It is determined the person who submitted the transitional ownership record made false statements in completing the transitional ownership record;

(5) The department does not receive the primary ownership record within 90 days from the date of sale or if no sale is involved, from the date the security agreement or contract was signed;

(6) The security interest holder or person submitting the transitional ownership record elects to retain it, requests it be returned or requests that the transitional ownership record be withdrawn; or

(7) The information on or in the transitional ownership record has been changed or altered in a manner that is not acceptable to the department. [1989 c.927 §9; 1993 c.233 §44; 1995 c.309 §2; 1999 c.818 §2; 2005 c.261 §2]

803.138 Discretionary rejection, return or invalidation of record by department. The Department of Transportation may reject, return or subsequently invalidate a transitional ownership record if:

(1) It is determined that title is to be issued to someone other than the person shown on the transitional ownership record;

(2) Interests reflected on the primary ownership record or in information submitted in conjunction with that record conflict with the interests as reflected on the transitional ownership record; or

(3) The person submitting the transitional ownership record has failed to submit the fee required by ORS 803.134 or to comply with an alternative payment method established by the department under ORS 803.134. [1989 c.927 §10; 1993 c.233 §45]

(Salvage Titles)

803.140 Application; certificate; rules. (1) When a person is required by the provisions of ORS 819.016 to apply for a salvage title for a vehicle, the application shall be in a form acceptable to the Department of Transportation and shall contain any information required by the department by rule. Rules adopted by the department may include, but need not be limited to, provisions for accepting an application under this section that does not contain all the information otherwise required, if the department is satisfied as to ownership of the vehicle.

(2) The department may design a salvage title certificate for vehicles and by rule may prescribe the contents of the certificate. A salvage title certificate shall be produced by a secure process that meets or exceeds the requirements of federal law.

(3) The department may issue a salvage title certificate to a person who submits an application that meets the requirements imposed by the department under this section and submits the fee required under ORS 803.090.

(4) The department may adopt any rules it considers necessary for the administration of the salvage title process. The rules may include, but need not be limited to, rules specifying:

(a) Permissible uses of a salvage title certificate.

(b) Requirements for replacement or surrender of a salvage title certificate or for issuance of a new certificate.

(c) Records that will be kept by the department.

(d) Forms of salvage title other than certificates. [1991 c.873 §28; 1993 c.233 §37]

PROVISIONS APPLICABLE TO BOTH TITLE AND REGISTRATION

(Generally)

803.200 Residency; criteria; exception; camper on vehicle. This section establishes when the exemptions under ORS 803.030 and 803.305 from titling and registration of vehicles owned by nonresidents are applicable. The applicability of the described exemptions for nonresident owners of vehicles is subject to all of the following:

(1) A person is a resident of this state for purposes of titling and registering vehicles if the person engages in any gainful employment in this state or takes any action to indicate the acquiring of residence in this state during the period of sojourn in this state by doing any of the following:

(a) Remaining in this state for a consecutive period of six months or more regardless of the domicile of the person.

(b) Placing children in a public school without payment of nonresident tuition fees.

(c) Making a declaration to be a resident of this state for the purpose of obtaining, at resident rates, a state license or tuition fees at an educational institution maintained by public funds.

(d) Maintaining a main office, branch office or warehouse facilities in this state and operating motor vehicles in this state.

(e) Operating motor vehicles in intrastate transportation for compensation or profit for other than seasonal agricultural work.

(2) Notwithstanding subsection (1) of this section, private passenger motor vehicle owners who are bona fide residents of states adjoining this state shall be permitted to operate their vehicles in this state for so long as such motor vehicles remain currently registered and titled in an adjoining state.

(3) A camper on a motor vehicle described in this section shall be subject to registration or titling under the vehicle code at the same time that such motor vehicle becomes subject to registration and titling under this section.

(4) Notwithstanding subsection (1) of this section, a person who is gainfully employed in this state shall not be considered a resident of the state if the person has taken no other steps to become a resident. This subsection applies, but is not limited, to a student at an educational institution who is paying nonresident tuition rates. [1983 c.338 §198; 1993 c.751 §87]

803.203 Proof of payment of taxes. (1) A person that purchases a taxable motor vehicle from a seller that is not subject to the privilege tax imposed under ORS 320.405 may not register or title the taxable motor vehicle in Oregon unless the person provides proof that:

(a) The person paid the use tax imposed under ORS 320.410;

(b) The person is not required to pay the use tax for the reasons provided in ORS 320.410 (4); or

(c) The taxable motor vehicle was purchased and titled by a car rental company as defined in ORS 803.219 using an electronic integrator.

(2) The person shall provide the proof described in subsection (1) of this section to the Department of Transportation in the manner established by the department by rule. [2017 c.750 §109; 2019 c.491 §12]

Note: 803.203 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

803.205 Proof of ownership or security interest on transfer or application for title or registration; affidavit. (1) The Department of Transportation may require proof under this section if the department determines the proof is necessary to resolve questions concerning vehicle ownership or undisclosed security interests in the transfer of any vehicle under ORS 803.092, in an application for issuance of title under ORS

803.045 or in an application for registration of a vehicle under ORS 803.350.

(2) Under this section, the department may require any proof sufficient to satisfy the department concerning the questions about the ownership of the vehicle or security interests in the vehicle. The proof required by the department may include, but is not limited to, completion of an affidavit that:

(a) Is in a form required by the department by rule;

(b) Contains any information the department requires by rule as necessary to establish ownership of the vehicle or to determine any security interests in the vehicle; and

(c) Is verified by the person making the affidavit.

(3) The department is not liable to any person for issuing title or registering a vehicle based on proof provided under this section.

(4) Nothing in this section affects any power of the department to refuse to issue or to revoke title or registration. [1983 c.338 §199; 1989 c.148 §16; 1993 c.233 §38; 2001 c.675 §13; 2003 c.655 §106]

803.206 Electronically transmitted documents for title, registration or odometer disclosure; rules. (1) As used in this section, "electronic signature" has the meaning given that term in ORS 84.004.

(2) The Department of Transportation may receive electronically transmitted documents necessary to:

(a) Issue or transfer a certificate of title for a vehicle;

(b) Register a vehicle or transfer registration of a vehicle;

(c) Issue a registration plate; or

(d) Comply with odometer disclosure requirements.

(3) Except as required in ORS 803.094 and 803.205 for affidavits, an acknowledgement before a notary public is not required when a document or signature is transmitted electronically under this section. When an affidavit is required under ORS 803.094 or 803.205, the department may accept a scanned copy of the person's signature and a scanned copy of the notary public's acknowledgment of the signature, which accurately reproduces the original signatures and contents of the document.

(4) The department may adopt rules relating to the electronic transmission of documents and the use of electronic signatures on documents described in subsection (2) of this section. [2015 c.708 §2]

Note: 803.206 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

803.207 Expedited titling and registration; fee. (1) The Department of Transportation by rule may establish procedures for providing expedited services related to the titling and registration of vehicles when such services are needed because of problems related to odometer disclosure requirements. This authority is in addition to the department's authority to provide expedited services for other reasons on an individual case basis.

(2) The department may charge a fee of not more than $10 for providing expedited services authorized by this section. [1991 c.873 §5]

803.210 Conditions precedent to issuance of title for certain vehicles. (1) The Department of Transportation shall not issue title for a vehicle described in subsection (2) of this section unless:

(a) An inspection of the vehicle identification number or numbers of the vehicle is performed in accordance with ORS 803.212; and

(b) The fee established under ORS 803.215 is paid to the department for the inspection.

(2) Except as provided in subsection (3) of this section, the requirements of this section apply to all of the following:

(a) A vehicle from another jurisdiction.

(b) Any assembled or reconstructed vehicle.

(c) Any vehicle if the certificate of title has been or is required to be submitted to the department, or a person is required to report to the department, under ORS 819.010, 819.012, 819.014 or 819.030.

(d) Any vehicle if the department has received notice that the vehicle has been or will be wrecked, dismantled, disassembled or substantially altered under ORS 819.010 or 822.135.

(e) Replicas.

(f) Other than a racing activity vehicle as defined in ORS 801.404, any vehicle the department has reason to believe was not certified by the original manufacturer as conforming to federal vehicle standards.

(3) The requirements of this section do not apply to the following vehicles if the person shown as the owner on an out-of-state title for the vehicle applies for an Oregon title in that person's name:

(a) A rental truck, rental truck tractor or rental trailer that is registered in Oregon under an interstate agreement that provides

that a portion of the owner's fleet is to be registered in each state in which the fleet operates.

(b) A trailer or semitrailer that has permanent registration. [1983 c.338 §200; 1985 c.16 §71; 1985 c.402 §9; 1985 c.410 §2; 1987 c.146 §2; 1991 c.820 §15; 1993 c.174 §8; 1993 c.233 §39; 2003 c.655 §107; 2007 c.693 §5]

803.212 Inspection of vehicle identification numbers; product identification numbers. (1) The Department of Transportation, or persons or agencies authorized to do so by the department, shall conduct a physical inspection of the vehicle identification number or numbers of each vehicle located in this state and required by ORS 803.210 to be inspected. The department may designate certified dealers to perform the inspection and may enter into agreements with the Oregon State Police or other law enforcement agencies of this state to perform inspections. The inspection shall determine whether the vehicle identification number or numbers match those on the records of the department, on the title or primary ownership record or contained in other information received by the department.

(2) If a vehicle that is required by ORS 803.210 to be inspected is located in another jurisdiction, the department may designate a person or agency in such jurisdiction to perform the physical inspection and may waive the inspection fee.

(3) Except as provided in subsection (4) of this section, the department shall check the vehicle identification number or numbers of all vehicles required by ORS 803.210 to be inspected against those listed as stolen at the National Crime Information Center. If the check indicates the vehicle is stolen, the department:

(a) Shall immediately notify the Oregon State Police or, if the department determines it would be appropriate to do so, notify another law enforcement agency; and

(b) Shall not issue title within 30 days of giving the notice required by paragraph (a) of this subsection unless the department is notified before the end of the 30 days that the vehicle is not stolen. After the passage of the 30-day period, the department may issue the title.

(4) The department may refer a vehicle to the Oregon State Police or other appropriate law enforcement agency for a vehicle identification number or product identification number inspection if:

(a) Inspection of the vehicle under this section reveals that the vehicle identification number or product identification number on the vehicle is different from the number provided to the department or appears to have been tampered with, altered or defaced; or

(b) The vehicle is a reconstructed or assembled vehicle or has been reported destroyed or totaled under ORS 819.012, 819.014 or 819.030 or is any other salvaged vehicle from another jurisdiction. This subsection does not apply to a vehicle that has been reported totaled to the department because of theft and has subsequently been recovered.

(5) If the department refers a vehicle to a law enforcement agency under subsection (4) of this section, the law enforcement agency shall inspect the vehicle. If the law enforcement agency determines that there is reason to believe that the identification number of the vehicle has been tampered with, altered or forged or that the vehicle is stolen, the law enforcement agency may seize the vehicle and may hold the vehicle until completing an investigation to establish the origin and ownership of the vehicle. The department shall reimburse the Department of State Police, and may reimburse any other law enforcement agency, for any inspections conducted under this subsection in an amount agreed upon by the department and the Department of State Police or other law enforcement agency. [1987 c.146 §4; 1991 c.576 §1; 1991 c.820 §16; 1993 c.233 §40a; 1993 c.751 §23; 2007 c.693 §6]

803.215 Fee for inspection. A fee of $7 shall be charged for an inspection of a vehicle required by ORS 803.210. [1983 c.338 §201; 1985 c.736 §1; 1987 c.146 §6; 1987 c.790 §2; 2003 c.618 §47]

803.217 Transfer of title and registration for vehicles abandoned by tenant; rules. The Department of Transportation shall adopt rules to provide for the transference of a certificate of title and registration for titled vehicles and recreational vehicles that are abandoned by a tenant as defined in ORS 90.100. [1997 c.577 §43; 2003 c.655 §108]

803.219 Limitation on car rental fees. (1) As used in this section:

(a) "Car rental company" means a person whose primary business is renting motor vehicles to consumers under rental agreements for periods of 90 days or less.

(b) "Motor vehicle" has the meaning given that term in ORS 801.360.

(2) A car rental company may not impose in a rental agreement a surcharge for the purpose of covering the costs of titling and registering a rental motor vehicle that is greater than the amount reasonably calculated to cover the costs incurred by the car rental company to title and register the rental motor vehicle. [2009 c.865 §29]

Note: 803.219 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative

action. See Preface to Oregon Revised Statutes for further explanation.

(Offenses)

803.220 Notification to department of name or address change; rules; requirements; procedure; exception; penalty. (1) A person commits the offense of unlawful failure to notify the Department of Transportation of a name or address change if the person:

(a) Has any interest in a vehicle registered or titled by this state that is shown on the title;

(b) Changes names, by marriage or otherwise, from that shown on the title or changes the person's address from that shown on the registration; and

(c) Does not comply with the requirements under this section.

(2) To comply with the requirements of this section, a person must do all the following:

(a) The person must notify the department of the change. Notice of a change of name or address must be given to the department within 30 days of the change, in a manner authorized by the department by rule.

(b) If the person changes names, by marriage or otherwise, from that shown on the title and a certificate of title is being held by a security interest holder, the person must notify the security interest holder within 30 days after the change who, in turn, must notify the department in a timely manner.

(c) Any time the name is changed from that on the title, any certificate of title that has been issued must be submitted to the department with the notice and the appropriate fee under ORS 803.090.

(3) A person may obtain a new certificate of title reflecting a change of name or address by making application therefor and paying the appropriate fee under ORS 803.090.

(4) If title has been issued in a form other than a certificate, a person requesting a change in name shall provide authorization from the primary security interest holder, if any, to have the title changed. If the authorization is not received, the department shall continue to reflect the previous name on the title. Nothing in this subsection precludes the department from including the new name in records maintained in conjunction with title whether or not authorization is received.

(5) Upon receipt of notice of a change and any authorization required under this section, the department shall note the change in its records. Upon receipt of the notice and the fee required under ORS 803.090, the department shall issue a new certificate of title indicating the change.

(6) This section does not apply to a change of name or address of a security interest holder or lessor that is a financial institution, a financial holding company or a bank holding company, as those terms are defined in ORS 706.008, a licensee under ORS chapter 725, or any subsidiary or affiliate of any of the foregoing.

(7) The offense described in this section, unlawful failure to notify the department of a name or address change, is a Class D traffic violation. [1983 c.338 §202; 1985 c.16 §72; 1985 c.485 §1; 1989 c.452 §6; 1993 c.233 §46a; 1993 c.751 §88; 1995 c.383 §36; 1997 c.631 §555; 2001 c.377 §54; 2003 c.129 §1]

803.225 Failure to designate replica, reconstructed, assembled or specially constructed vehicle in title or registration application; penalty. (1) A person commits the offense of failure to designate a replica or a reconstructed, assembled or specially constructed vehicle if the person makes application for the titling or registration of a vehicle that is a replica or a reconstructed, assembled or specially constructed vehicle and that fact is not indicated in the application.

(2) The offense described in this section, failure to designate a replica, reconstructed, assembled or specially constructed vehicle in application for title or registration, is a Class B misdemeanor. [1983 c.338 §203; 1985 c.393 §4; 1985 c.402 §10; 1993 c.233 §47]

803.230 Forging, altering or unlawfully producing or using title or registration; penalty. (1) A person commits the offense of forging, altering or unlawfully producing or using vehicle titles or registration if the person does any of the following:

(a) Alters or forges or causes to be altered or forged any certificate of title, certificate of registration or assignment thereof issued by the Department of Transportation.

(b) Holds or uses certificate of title, certificate of registration or assignment thereof issued by the department knowing the certificate or assignment has been altered or forged.

(c) Unless authorized by the department, prints or produces or causes to be printed or produced any certificate of title, certificate of registration or any assignment thereof required by the department.

(d) Holds or uses any certificate of title, certificate of registration or assignment thereof required by the department knowing that it has been printed or produced without authority from the department.

(2) The offense described in this section, forging, altering or unlawfully producing or using vehicle titles or registration, is a Class C felony. [1983 c.338 §204; 1985 c.16 §73; 1991 c.407 §22; 1995 c.733 §83]

REGISTRATION

(Generally)

803.300 Failure to register; penalty. (1) A person commits the offense of failure to register a vehicle if the person owns a vehicle in this state and the person does not register the vehicle in this state.

(2) In addition to other persons subject to this section, this section applies to out-of-state corporations owning, operating or maintaining a place of business in this state with regard to vehicles that are used by the corporation doing business in this state.

(3) Exemptions from this section are established under ORS 803.305.

(4) The offense described in this section, failure to register a vehicle, is a Class D traffic violation. [1983 c.338 §205; 1985 c.16 §74; 1985 c.401 §4; 1995 c.383 §37]

803.305 Exemptions from general registration requirements. This section establishes exemptions from the requirements under ORS 803.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. Vehicles exempted by this section from the requirements to be registered by this state are not prohibited from being registered by this state if registration is permitted under ORS 803.310. The following are exempt, either partially or completely as described, from the registration requirements under ORS 803.300:

(1) Road rollers, farm tractors, trolleys and traction engines are exempt from registration.

(2) Bicycles are exempt from registration.

(3) A vehicle is exempt from registration if it has registration issued for the vehicle by the Armed Forces of the United States where the registration is issued in a foreign country to a vehicle owned by a member of the Armed Forces. The exemption granted by this subsection applies only for a period of 45 days from the time the vehicle is returned to the United States.

(4) A vehicle is exempt from registration if it is not operated on the highways of this state.

(5) A trailer is exempt from registration if it is equipped with pneumatic tires made of elastic material and is not operated in this state with a loaded weight of more than 1,800 pounds. A trailer for hire, travel trailer or camper is not exempt by this subsection.

(6) Vehicles owned and operated by the United States Government are exempt from registration.

(7) Snowmobiles are subject to the requirements for registration provided under ORS 821.080 to 821.110.

(8) Implements of husbandry, well drilling machinery, emergency fire apparatus providing public fire protection and wheelchairs are exempt from registration.

(9) Road graders, farm tractors and farm trailers on highways are exempt from registration when the operation of the vehicle upon the highway is incidental to its use in an agricultural operation.

(10) Except as provided in subsection (26) of this section, fixed load vehicles are exempt from registration while the vehicles are operated:

(a) In the construction or reconstruction of state or county roads, highways or city streets; and

(b) Within the immediate construction projects, as described in the governmental agency contract under which the work is being performed.

(11) Motor vehicles designed to operate at a loaded weight over 8,000 pounds, trailers and equipment are exempt from registration while being used for the purposes of forest protection and fire suppression under ORS chapter 477 or a similar federal statute. The exemption under this subsection applies to the vehicles or equipment described while being moved to or from the work area. The exemption under this subsection only applies to vehicles or equipment owned, leased, contracted for or requisitioned by the State Forester or State Board of Forestry, a contractor of the State Forester or State Board of Forestry under ORS chapter 477 or the United States Government.

(12) Vehicles being used for the purposes of forest protection and fire suppression are exempt if the vehicles are necessary in order to comply with ORS 477.615 or 477.650 or a similar federal statute. The exemption under this subsection also applies to the vehicles described being moved to or from the work area.

(13) Golf cart exemptions from registration are as provided in ORS 820.210.

(14) Vehicles currently registered and titled in any other country, state or territory are not required to be registered by this state. All of the following apply to this subsection:

(a) This subsection only provides an exemption as long as the owner of the vehicle satisfactorily shows that the owner is not a resident of this state or has been a resident

of this state for less than 30 days. For the purpose of this paragraph, a person is a resident of this state if the person meets the residency requirements described in ORS 803.200.

(b) The exemption under this subsection applies to vehicles granted exemptions under ORS 802.500, 802.520 or 826.005 unless otherwise provided for under paragraph (c) of this subsection.

(c) Except as otherwise provided in this paragraph, a vehicle operated over the highways of this state for compensation or profit must comply with the registration requirements under ORS 803.300 in the same manner as vehicles owned by persons in this state. The following vehicles are not subject to this paragraph:

(A) Vehicles operated under reciprocal registration exemptions established under ORS 802.500 or 826.005.

(B) Vehicles operated under an exemption established under ORS 802.520.

(C) Vehicles that are proportionally registered under an agreement established under ORS 826.007 and according to the procedures established under ORS 826.009 and 826.011.

(D) Any vehicle if duly registered and titled under the laws of the state or country of which the owner is a bona fide resident to the extent that in the foreign country, state, territory or federal district where the owner resides like exemptions and privileges are granted vehicles duly registered and titled under the laws of this state and owned by residents of this state.

(d) If no exemption from registration requirements is in effect under ORS 802.500, 802.520, 826.005 or 826.007 with respect to another jurisdiction, any vehicle properly registered and titled in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdictions to vehicles properly registered and titled in this state. Reciprocity extended under this paragraph shall apply to commercial vehicles only when engaged exclusively in interstate commerce.

(e) Any vehicle operated under dealer registration plates issued by another state, country, province, territory or the District of Columbia is subject to this subsection.

(15) Vehicles operated or used by vehicle dealers may be operated or used without registration as provided under ORS 822.040.

(16) Vehicles towed by towing businesses may be towed without registration as provided under ORS 822.210.

(17) Vehicles without registration may be transported by vehicle transporters as provided under ORS 822.310.

(18) Vehicles that are not registered may be operated under trip permits described under ORS 803.600 or under permits described under ORS 803.610 to 803.625.

(19) If trailers that are part of a fleet of trailers for hire are properly registered in this state under an agreement entered into pursuant to ORS 802.500, all trailers that are identified as being a part of the same fleet and that are currently registered in any state, territory, province, country or the District of Columbia shall be permitted to operate in this state in both interstate and intrastate commerce without being registered by this state.

(20) Vehicles that are registered by the United States Department of State and that are owned or operated by foreign nationals with diplomatic immunity are exempt from registration.

(21) Tow dollies and converter dollies are exempt from registration.

(22) Class I, Class III and Class IV all-terrain vehicles are exempt from registration.

(23) Motor assisted scooters are exempt from registration.

(24) Electric personal assistive mobility devices are exempt from registration.

(25) A racing activity vehicle that is being operated for the purposes of a test drive within a 30-mile radius of the location where the vehicle is manufactured is exempt from registration.

(26) Road machinery that is operated at the direction of a road authority is exempt from registration. The exemption under this subsection also applies when the operation of road machinery upon a highway or an alley is incidental to its use in a highway maintenance operation. [1983 c.338 §206; 1985 c.16 §75; 1985 c.333 §7; 1985 c.401 §5; 1985 c.459 §4; 1985 c.668 §7; 1987 c.25 §2; 1989 c.43 §20; 1989 c.991 §25; 1991 c.284 §15; 1991 c.459 §438g; 1993 c.174 §3; 1993 c.303 §2; 1995 c.774 §11; 1999 c.977 §19; 2001 c.749 §20; 2001 c.827 §2; 2003 c.71 §1; 2003 c.341 §4; 2003 c.655 §109; 2007 c.70 §325; 2007 c.693 §3e; 2007 c.845 §2; 2009 c.91 §4; 2011 c.360 §14]

803.310 Optional registration; rules. (1) The Department of Transportation, by rule, may provide for optional registration of vehicles that are exempt from vehicle registration requirements by ORS 803.305. The rules adopted for purposes of this subsection may provide for the registration of categories of vehicles, types of vehicles or otherwise. Upon request of an owner, the department may issue registration for a vehicle that meets the requirements of rules adopted under this section.

(2) A vehicle that is registered under this section is subject to the same provisions, conditions, fees and other requirements for registration as are other vehicles under the vehicle code. [1985 c.333 §6]

803.315 Failure to pay registration fee; penalty. (1) A person commits the offense of failure to pay the appropriate registration fee if the person operates any vehicle or transports any camper that is registered in this state unless the proper fee, as established under ORS 803.420, has been paid for registration of the vehicle.

(2) The offense described in this section, failure to pay appropriate registration fee, is a Class D traffic violation. [1983 c.338 §207; 1985 c.16 §76; 1995 c.383 §38; 2003 c.655 §110]

803.320 Permitting unlawful operation of unregistered vehicle; penalty. (1) A person commits the offense of permitting unlawful operation of an unregistered vehicle if the person authorizes or knowingly permits a motor vehicle that is owned by the person or under the person's control and that is not registered as required under the vehicle code or ORS chapter 826 to be driven by any person.

(2) The offense described in this section, permitting unlawful operation of unregistered vehicle, is a Class D traffic violation. [1983 c.338 §208; 1991 c.407 §23; 1995 c.383 §5]

803.325 Purchase and use of out-of-state registered vehicle; requirements; penalty. (1) A person commits the offense of purchase and use of an out-of-state registered vehicle by a resident if the person is a resident of this state and the person purchases a vehicle registered outside of this state without doing all of the following:

(a) Upon purchase, the person shall remove the registration plates and shall cause the vehicle to be registered as provided under the vehicle code or under ORS chapter 826, as appropriate, for vehicles owned by residents of this state.

(b) The person shall not use, within this state, the vehicle except when the person has paid fees and has complied with the vehicle code or with ORS chapter 826, as appropriate.

(2) The offense described in this section, purchase and use of out-of-state registered vehicle by resident, is a Class D traffic violation. [1983 c.338 §209; 1985 c.16 §77; 1991 c.407 §24; 1995 c.383 §39]

(Qualifications)

803.350 Qualifications for registration; fee; rules. This section establishes the requirements for qualification for registration. The Department of Transportation may not issue registration to a vehicle if the requirements under this section are not met. The department, in the absence of just cause for refusing to register a vehicle upon application, shall assign a distinctive number or other distinctive means of identification and shall issue registration for a vehicle if all of the following requirements are met:

(1) The applicant applies for and is granted title in the applicant's name at the same time the person makes application for registration, or presents satisfactory evidence that title covering the vehicle has been previously issued to the applicant.

(2) The applicant completes an application described under ORS 803.370. If the vehicle is a reconstructed or assembled vehicle or a replica, the person must indicate that fact in the application or be subject to ORS 803.225.

(3) The applicant pays the department the registration fee established under ORS 803.420 and 803.422 and any applicable fees for issuance of registration plates.

(4) For motor vehicles, proof of compliance with pollution control equipment requirements is provided to the department. Proof required to comply with this subsection is described under ORS 815.310. This subsection does not apply if the vehicle is exempt from the requirements for proof of compliance under ORS 815.300.

(5) The applicant is domiciled in this state, as described in ORS 803.355, if required by ORS 803.360 to be domiciled in the state in order to register a vehicle. If the department has reason to believe that the applicant is not domiciled in this state and is required to be in order to register a vehicle, the department may require the person to submit proof of domicile. The department shall determine by rule what constitutes proof of domicile.

(6) The applicant owns a vehicle that qualifies under ORS 803.360 (2) for registration in this state, if the owner is not domiciled in this state and is not required by ORS 803.200, or any other provision of law, to register the vehicle in this state.

(7) The applicant surrenders all evidence of any former registration or title as required by ORS 803.380.

(8)(a) Beginning with 2009 model year new motor vehicles, the applicant provides proof of compliance with low emission motor vehicle standards adopted pursuant to ORS 468A.360. The department shall determine by rule what constitutes proof of compliance with low emission motor vehicle standards.

(b) The department shall determine by rule which new motor vehicles are exempt from the requirements of this subsection. Any rules adopted pursuant to this para-

graph shall be consistent with the Environmental Quality Commission standards adopted pursuant to ORS 468A.360.

(c) For purposes of this subsection, "new motor vehicle" means a motor vehicle with 7,500 miles or less on the odometer when the vehicle is initially registered under ORS 803.420 (6)(a), 805.100, 805.110 or 805.120.

(9) If required to do so by the department, the applicant provides the department with satisfactory proof that the vehicle was designed to be operated on highways and meets equipment requirements imposed by statute or rule for the lawful operation of a vehicle on highways. The department may adopt rules specifying the kinds of vehicles that are subject to this subsection and what constitutes satisfactory proof under this subsection. [1983 c.338 §210; 1985 c.16 §78; 1985 c.305 §9; 1985 c.402 §11; 1987 c.146 §7; 1989 c.22 §1; 1993 c.233 §48; 2001 c.293 §3; 2007 c.366 §1; 2017 c.62 §4; 2017 c.750 §39d; 2018 c.114 §11]

803.355 "Domicile" described. For purposes of ORS 803.350 to 803.370 and 807.045, a person is domiciled in this state if the person's place of abode is in the state and the person intends to remain in the state or, if absent, to return to it. [1985 c.305 §7; 1989 c.636 §15]

803.360 Domicile requirements for registration; exceptions. (1) A person may not register or renew the registration of a vehicle in this state unless the person is domiciled in this state, as described in ORS 803.355. This section does not apply to persons required by ORS 803.200 or any other provision of law, to register vehicles in this state.

(2) Notwithstanding subsection (1) of this section, a person who is not domiciled in this state may register or renew the registration of a vehicle that:

(a) Is usually left within the state when the registered owner is absent from the state;

(b) Is used primarily for personal transportation within the state;

(c) Is a private passenger vehicle or a vehicle with a loaded weight of no more than 10,000 pounds; and

(d) Is not a motor home or a camper. [1985 c.305 §8; 2005 c.770 §3; 2019 c.312 §31]

(Application)

803.370 Contents of application; rules. This section establishes requirements for an application for vehicle registration in this state. If an applicant fails to comply with requirements under this section, the Department of Transportation may refuse to register or reregister a vehicle until the applicant complies with the requirements. An application shall contain all of the following:

(1) The true name and, except as provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, the actual residence or business address of the owner. The department may provide by rule for acceptance of something other than an actual residence or business address if the department determines that the applicant does not have an actual address.

(2) A description of the vehicle, including the name of the make and the vehicle identification number.

(3) An odometer disclosure in a form determined by the department by rule pursuant to ORS 803.120, if a disclosure is otherwise required.

(4) Any other information required by the department.

(5) If the application is for registration or reregistration of a vehicle that is subject to the federal heavy vehicle use tax, proof that the federal use tax has been paid. The department shall adopt rules to determine proof that will be acceptable for purposes of this subsection.

(6) A statement:

(a) That the applicant is domiciled in this state as described in ORS 803.355 if the applicant is required by ORS 803.360 to be domiciled in this state in order to register a vehicle in the state; and

(b) That so long as the vehicle remains registered to the applicant in this state, the applicant will remain domiciled in this state if required to do so in order to register the vehicle.

(7) A statement:

(a) That the vehicle qualifies under ORS 803.360 (2) for registration in this state, if the owner is not domiciled in this state and is not required by ORS 803.200, or any other provision of law, to register the vehicle in this state; and

(b) That so long as the vehicle remains registered to the applicant under the provisions of ORS 803.360 (2), the owner and the vehicle will meet the qualifications of this subsection.

(8) A statement upon initial registration that the applicant is in compliance with financial responsibility requirements for the vehicle and will remain in compliance until the vehicle is transferred. Exemptions from this subsection are established in ORS 806.020.

(9) If the application is for registration or renewal of registration of a motor vehicle by a motor carrier, the information on drug and alcohol testing programs required by

ORS 825.410. [1983 c.338 §211; 1985 c.16 §79; 1985 c.251 §18; 1985 c.305 §10; 1985 c.563 §4; 1989 c.695 §3; 1991 c.67 §215; 1991 c.523 §4; 1991 c.873 §15; 1993 c.751 §89; 1999 c.1099 §4; 2005 c.292 §5; 2007 c.542 §18]

803.375 False application prohibited; penalty. (1) A person commits the offense of false application for vehicle registration if the person does any of the following:

(a) Knowingly makes any false statement or representation with respect to any facts required to be set forth in any application for registration.

(b) Uses a name other than the person's true name in any application for registration.

(2) The penalty for submitting a false odometer reading in an application for registration is as provided in ORS 815.430.

(3) The offense described in this section, false application for vehicle registration, is a Class A misdemeanor. [1983 c.338 §212; 1985 c.16 §80; 1985 c.251 §19]

803.380 Failure to surrender out-of-state registration; penalty. (1) A person commits the offense of failure to surrender out-of-state registration, if the person registers a vehicle in this state that has been registered in another jurisdiction and the person does not surrender to the Department of Transportation all number plates, seals, certificates of registration or other evidences of the former registration in possession or control of the applicant.

(2) The offense described in this section, failure to surrender out-of-state registration, is a Class D traffic violation. [1983 c.338 §213; 1985 c.16 §81; 1991 c.407 §25; 1995 c.733 §84]

803.385 False swearing relating to registration; penalty. (1) A person commits the offense of false swearing relating to registration of vehicles if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the registering of vehicles under the vehicle code or under ORS chapter 826.

(2) The penalty for submitting a false odometer reading in an application for registration is as provided under ORS 815.430.

(3) The offense described in this section, false swearing relating to registration of vehicles, is a Class A misdemeanor. [1983 c.338 §214; 1985 c.251 §20; 1985 c.393 §5; 1991 c.407 §26; 1993 c.751 §90]

(Periods and Fees)

803.400 Duration of registration periods. This section establishes and distinguishes registration periods. Each registration period determines the period of validity for vehicle registration. Registration under the following registration periods is valid during the described registration period:

(1)(a) Annual registration is valid for a one-year period. Except as provided in this subsection, the period starts on the first day of a calendar month and runs through the last day of the same calendar month one year later. Once a vehicle is registered under annual registration, the registration period of the vehicle begins and ends with that same calendar month each time the vehicle is reregistered or registration for the vehicle is renewed.

(b) Annual registration issued under ORS 803.415 (11) starts on the day a vehicle is registered and runs through the same day one year later. Once a vehicle is registered annually under ORS 803.415 (11), the registration period of the vehicle begins and ends with that same day each time the vehicle is reregistered or registration for the vehicle is renewed. Vehicles initially registered on February 29 will expire on the last day of February at the end of the registration period.

(2) Biennial registration is valid for a two-year period. The period starts on the day a vehicle is registered and runs through the same day two years later. Once a vehicle is registered under biennial registration, the registration period of the vehicle begins and ends with that same day each time the vehicle is reregistered or registration for the vehicle is renewed. Vehicles initially registered on February 29 will expire on the last day of February two years later.

(3) Calendar-year registration starts on January 1 of a year and runs through December 31 of the same year.

(4) Ownership registration starts on the day the vehicle is registered and is valid until the ownership of the vehicle changes.

(5) Permanent registration starts on the day the vehicle is registered and is valid for the life of the vehicle.

(6) Quarterly registration starts on the first day of any calendar quarter and runs through the last day of the last calendar quarter in the registration period. The number of calendar quarters in a quarterly registration is elected by the vehicle owner at the time of registration. A person may not establish quarterly registration periods for more than four quarters. If a vehicle is registered for a quarterly registration period of less than four calendar quarters, the Department of Transportation shall collect, when issuing or renewing registration of the vehicle, the additional fee for quarterly registration established under ORS 803.420.

(7) Four-year registration starts on the day a vehicle is registered and runs through

the same day four years later. [1983 c.338 §222; 1989 c.76 §1; 1993 c.174 §4; 2001 c.124 §2; 2005 c.280 §1]

803.405 Effect of initial registration month. (1) The month in which any vehicle is initially registered under annual registration is the month established as the beginning and ending of registration periods for the vehicle unless the Department of Transportation adjusts the registration month of the vehicle upon initial registration under ORS 803.410.

(2) The day on which any vehicle is initially registered under biennial registration or when required under ORS 820.520 is the day established as the beginning and ending of registration periods for the vehicle unless the department adjusts the registration period of the vehicle upon initial registration under ORS 803.410. [1983 c.338 §223; 1989 c.76 §2]

803.410 Department authorized to adjust periods and fees; rules. The Department of Transportation is empowered to administer ORS 803.400 and 803.405, relating to the registration periods of vehicles and to adopt and enforce rules, including rules for the adjustment or proration of fees and registration periods, necessary to accomplish the enforcement of those sections. The authority granted the department under this section is subject to the following:

(1) The department may initially register a vehicle that is subject to biennial registration for less than a 24-month period or for more than a 24-month period, not exceeding a maximum of a 30-month period, and prorate the fee on a monthly basis, when in its opinion such fractional registration tends to fulfill the purpose of the biennial registration system.

(2) The department may initially adjust the registration periods of trailers for hire registered as part of a fleet.

(3) The authority granted under this section includes authority to adjust the initial registration period of travel trailers and special use trailers that are required to be registered after being removed from assessment under the ad valorem tax laws by ORS 820.520.

(4) The department, by rule, may adjust registration fees or registration periods for a vehicle, as is administratively convenient for the department, if:

(a) The vehicle is changed from one type of registration to another type; or

(b) Any other change relating to the registration of the vehicle is made where it would be administratively convenient for the department to make such adjustments. [1983 c.338 §224; 1985 c.16 §83; 1985 c.253 §3; 1987 c.750 §6; 1989 c.43 §21; 1993 c.174 §5]

803.415 Registration periods for vehicles. This section establishes registration periods for vehicles. The registration periods are periods described under ORS 803.400. Except as provided in the following, the registration period for any vehicle registered in this state by the Department of Transportation is a biennial registration period:

(1) The following vehicles have permanent registration:

(a) Antique vehicles registered under ORS 805.010.

(b) Vehicles of special interest registered under ORS 805.020.

(c) Trailers that will be operated on the highways at a loaded weight of more than 8,000 pounds and are not travel trailers, fixed load vehicles or special use trailers.

(2) Government-owned vehicles registered under ORS 805.040 have ownership registration.

(3) The following vehicles may be registered under annual or quarterly registration unless the vehicles are registered under proportional registration under ORS 826.009 or proportional fleet registration under ORS 826.011:

(a) Vehicles required to establish a registration weight under ORS 803.430.

(b) Commercial buses.

(c) Vehicles registered as farm vehicles under ORS 805.300.

(4) Snowmobiles are registered as provided in ORS 821.080.

(5) Vehicles operated by dealers who hold certificates under ORS 822.020 are as provided under ORS 822.040.

(6) Trailers for hire that will be operated at a loaded weight of 8,000 pounds or less may be registered as follows:

(a) Annual registration; or

(b) If registered under an agreement pursuant to ORS 802.500, for a period of time determined as specified in the agreement or as determined by the department.

(7) Except as otherwise provided in subsection (10) of this section, the registration period for electric vehicles and hybrid vehicles that use electricity and another source of motive power is a biennial registration period except that the registration period for the following electric or hybrid vehicles is an annual registration period:

(a) Commercial buses.

(b) Electric or hybrid vehicles registered as farm vehicles under ORS 805.300.

(c) Vehicles required to establish registration weight under ORS 803.430.

(8) Vehicles registered under ORS 805.100 have an ownership registration period.

(9) School vehicles registered under ORS 805.050 have ownership registration except that the registration shall continue to be valid if ownership of the vehicle is transferred to a person who continues to use the vehicle for purposes authorized by ORS 805.050.

(10) The following vehicles have a four-year registration period:

(a) New vehicles registered under ORS 803.420 (6)(a) for which new registration plates will be issued;

(b) New mopeds or motorcycles registered under ORS 803.420 (6)(c) for which new registration plates will be issued; and

(c) New trailers registered under ORS 803.420 (6)(b), for which new registration plates will be issued.

(11) A rental or leasing company, as defined in ORS 221.275, may elect an annual, a biennial or a four-year registration period for the initial registration of a new vehicle registered under ORS 803.420 (6)(a) for which new registration plates will be issued if the company owns the vehicle that is being registered. The subsequent renewal or reregistration periods for the vehicle are biennial.

(12) Vehicles registered under ORS 805.110 have ownership registration except that the registration shall continue to be valid if ownership of the vehicle is transferred to a spouse who is authorized to retain the former prisoner of war registration plates under ORS 805.110. [1983 c.338 §225; 1985 c.16 §84; 1985 c.177 §1; 1985 c.189 §1; 1985 c.547 §12; 1987 c.158 §162; 1987 c.217 §2; 1989 c.43 §22; 1989 c.723 §7; 1989 c.991 §26; 1991 c.284 §16; 1991 c.407 §27; 1993 c.174 §6; 1995 c.774 §12; 1999 c.977 §20; 2001 c.124 §1; 2001 c.293 §9; 2003 c.655 §111; 2005 c.280 §2; 2017 c.62 §5; 2017 c.750 §39e]

803.417 Registration period for Oregon National Guard member or military reservist. (1) Notwithstanding ORS 803.400 and 803.415, the registration of a vehicle registered in the name of a person who is a member of the Oregon National Guard or a military reservist ordered on active duty and deployed to a location outside the United States that expires while the person is on active duty shall remain valid for 90 days following the termination of active duty.

(2) The court shall dismiss the charge of failure to renew vehicle registration under ORS 803.455 if, when charged, a member of the Oregon National Guard or a military reservist had a valid registration for the vehicle pursuant to subsection (1) of this section. [2005 c.257 §3]

Note: 803.417 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

803.420 Registration fees. (1) The vehicle registration fees imposed under this section shall be based on the classifications determined by the Department of Transportation by rule. The department may classify a vehicle to ensure that registration fees for the vehicle are the same as for other vehicles the department determines to be comparable.

(2) Except as otherwise provided in this section, or unless the vehicle is registered quarterly, the fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415. For a vehicle registered for a quarterly registration period under ORS 803.415, the department shall apportion any fee under this section to reflect the number of quarters registered.

(3) Vehicle registration fees are due when a vehicle is registered and when the registered owner renews the registration.

(4) In addition to the registration fees listed in this section, a county or a district may impose an additional registration fee as provided under ORS 801.041 and 801.042.

(5) A rental or leasing company, as defined in ORS 221.275, that elects to initially register a vehicle for an annual or biennial registration period shall pay a fee of $2 in addition to the vehicle registration fee provided under this section.

(6) The registration fees for each year of the registration period for vehicles subject to biennial registration are as follows:

(a) Passenger vehicles not otherwise provided for in this section or ORS 821.320, $43.

(b) Utility trailers or light trailers, as those terms are defined by rule by the department, $58.

(c) Mopeds and motorcycles, $39.

(d) Low-speed vehicles, $58.

(e) Medium-speed electric vehicles, $58.

(7) The registration fees for vehicles that are subject to biennial registration and that are listed in this subsection are as follows:

(a) State-owned vehicles registered under ORS 805.045 and undercover vehicles registered under ORS 805.060, $10 upon registration or renewal.

(b) Fixed load vehicles:

(A) If a declaration of weight described under ORS 803.435 is submitted establishing the weight of the vehicle at 3,000 pounds or less, $61.

(B) If no declaration of weight is submitted or if the weight of the vehicles is in excess of 3,000 pounds, $82.

(c) Travel trailers, special use trailers, campers and motor homes, based on length as determined under ORS 803.425:

(A) Trailers or campers that are 6 to 10 feet in length, $81.

(B) Trailers or campers over 10 feet in length, $81 plus $6.75 a foot for each foot of length over the first 10 feet.

(C) Motor homes that are 6 to 14 feet in length, $86.

(D) Motor homes over 14 feet in length, $126 plus $7.50 a foot for each foot of length over the first 10 feet.

(8) The registration fee for trailers for hire that are equipped with pneumatic tires made of an elastic material and that are not travel trailers or trailers registered under permanent registration is $30.

(9) The registration fees for vehicles subject to ownership registration are as follows:

(a) Government-owned vehicles registered under ORS 805.040, $5.

(b) Vehicles registered with special registration for disabled veterans under ORS 805.100 or for former prisoners of war under ORS 805.110, $15.

(c) School vehicles registered under ORS 805.050, $5.

(10) The registration fees for vehicles subject to permanent registration are as follows:

(a) Antique vehicles registered under ORS 805.010, $100.

(b) Vehicles of special interest registered under ORS 805.020, $100.

(c) Racing activity vehicles registered under ORS 805.035, $100.

(d) Trailers, $10.

(e) State-owned vehicles registered under ORS 805.045 and undercover vehicles registered under ORS 805.060, $10.

(11) The registration fee for trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500 is the same fee as the fee for vehicles of the same type registered under other provisions of the Oregon Vehicle Code.

(12) The registration fee for vehicles with proportional registration under ORS 826.009, or proportional fleet registration under ORS 826.011, is the same fee as the fee for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 826.007.

(13) In addition to any other registration fees charged for registration of vehicles in fleets under ORS 805.120, the department may charge the following fees:

(a) Service charge for each vehicle entered into a fleet, $3.

(b) Service charge for each vehicle in the fleet at the time of renewal, $2.

(14)(a)(A) For the period beginning January 1, 2018, and ending December 31, 2019, the registration fee for motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, tow vehicles used to transport property for hire other than as described in ORS 822.210 and commercial buses is as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

Weight in Pounds			Fee
8,000	or	less	$ 63
8,001	to	10,000	396
10,001	to	12,000	450
12,001	to	14,000	504
14,001	to	16,000	558
16,001	to	18,000	612
18,001	to	20,000	682
20,001	to	22,000	736
22,001	to	24,000	808
24,001	to	26,000	879
26,001	to	28,000	375
28,001	to	30,000	391
30,001	to	32,000	422
32,001	to	34,000	438
34,001	to	36,000	468
36,001	to	38,000	485
38,001	to	40,000	515
40,001	to	42,000	532
42,001	to	44,000	562
44,001	to	46,000	578
46,001	to	48,000	593
48,001	to	50,000	625
50,001	to	52,000	656
52,001	to	54,000	672
54,001	to	56,000	686
56,001	to	58,000	717
58,001	to	60,000	750
60,001	to	62,000	780
62,001	to	64,000	811
64,001	to	66,000	827
66,001	to	68,000	857
68,001	to	70,000	874
70,001	to	72,000	904
72,001	to	74,000	921
74,001	to	76,000	951
76,001	to	78,000	967
78,001	to	80,000	998
80,001	to	82,000	1,014
82,001	to	84,000	1,045
84,001	to	86,000	1,061
86,001	to	88,000	1,092
88,001	to	90,000	1,108
90,001	to	92,000	1,139
92,001	to	94,000	1,155
94,001	to	96,000	1,185
96,001	to	98,000	1,202
98,001	to	100,000	1,218
100,001	to	102,000	1,249
102,001	to	104,000	1,265
104,001	to	105,500	1,295

(B) For the period beginning on January 1, 2020, and ending on December 31, 2021, the registration fee for motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, tow vehicles used to transport property for hire other than as described in ORS 822.210 and commercial buses is as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

Weight in Pounds			Fee
8,000	or	less	$ 70
8,001	to	10,000	437
10,001	to	12,000	497
12,001	to	14,000	556
14,001	to	16,000	616
16,001	to	18,000	676
18,001	to	20,000	753
20,001	to	22,000	813
22,001	to	24,000	893
24,001	to	26,000	970
26,001	to	28,000	375
28,001	to	30,000	391
30,001	to	32,000	422
32,001	to	34,000	438
34,001	to	36,000	468
36,001	to	38,000	485
38,001	to	40,000	515
40,001	to	42,000	532
42,001	to	44,000	562
44,001	to	46,000	578
46,001	to	48,000	593
48,001	to	50,000	625
50,001	to	52,000	656
52,001	to	54,000	672
54,001	to	56,000	686
56,001	to	58,000	717
58,001	to	60,000	750
60,001	to	62,000	780
62,001	to	64,000	811
64,001	to	66,000	827
66,001	to	68,000	857
68,001	to	70,000	874
70,001	to	72,000	904
72,001	to	74,000	921
74,001	to	76,000	951
76,001	to	78,000	967
78,001	to	80,000	998
80,001	to	82,000	1,014
82,001	to	84,000	1,045
84,001	to	86,000	1,061
86,001	to	88,000	1,092
88,001	to	90,000	1,108
90,001	to	92,000	1,139
92,001	to	94,000	1,155
94,001	to	96,000	1,185
96,001	to	98,000	1,202
98,001	to	100,000	1,218
100,001	to	102,000	1,249
102,001	to	104,000	1,265
104,001	to	105,500	1,295

(b)(A)(i) For the period beginning January 1, 2018, and ending December 31, 2019, the registration fee for motor vehicles with a registration weight of more than 8,000 pounds that are described in ORS 825.015, that are operated by a charitable organization as defined in ORS 825.017 (13), is as provided in the following chart:

Weight in Pounds			Fee
8,001	to	10,000	$ 64
10,001	to	12,000	76
12,001	to	14,000	83
14,001	to	16,000	95
16,001	to	18,000	102
18,001	to	20,000	114
20,001	to	22,000	121
22,001	to	24,000	133
24,001	to	26,000	140
26,001	to	28,000	152
28,001	to	30,000	159
30,001	to	32,000	171
32,001	to	34,000	178
34,001	to	36,000	191
36,001	to	38,000	197
38,001	to	40,000	210
40,001	to	42,000	216
42,001	to	44,000	229
44,001	to	46,000	235
46,001	to	48,000	241
48,001	to	50,000	254
50,001	to	52,000	267
52,001	to	54,000	273
54,001	to	56,000	279
56,001	to	58,000	292
58,001	to	60,000	305
60,001	to	62,000	318
62,001	to	64,000	330
64,001	to	66,000	337
66,001	to	68,000	349
68,001	to	70,000	356
70,001	to	72,000	368
72,001	to	74,000	375
74,001	to	76,000	387
76,001	to	78,000	394
78,001	to	80,000	406
80,001	to	82,000	413
82,001	to	84,000	425
84,001	to	86,000	432
86,001	to	88,000	445
88,001	to	90,000	451
90,001	to	92,000	464
92,001	to	94,000	470
94,001	to	96,000	483
96,001	to	98,000	489
98,001	to	100,000	495
100,001	to	102,000	508
102,001	to	104,000	514
104,001	to	105,500	527

(ii) For the period beginning on January 1, 2020, and ending on December 31, 2021, the registration fee for motor vehicles with a registration weight of more than 8,000

pounds that are described in ORS 825.015, that are operated by a charitable organization as defined in ORS 825.017 (13), is as provided in the following chart:

Weight in Pounds			Fee
8,001	to	10,000	$ 68
10,001	to	12,000	81
12,001	to	14,000	88
14,001	to	16,000	101
16,001	to	18,000	108
18,001	to	20,000	122
20,001	to	22,000	128
22,001	to	24,000	142
24,001	to	26,000	149
26,001	to	28,000	162
28,001	to	30,000	169
30,001	to	32,000	182
32,001	to	34,000	189
34,001	to	36,000	203
36,001	to	38,000	209
38,001	to	40,000	223
40,001	to	42,000	230
42,001	to	44,000	243
44,001	to	46,000	250
46,001	to	48,000	257
48,001	to	50,000	270
50,001	to	52,000	284
52,001	to	54,000	290
54,001	to	56,000	297
56,001	to	58,000	311
58,001	to	60,000	324
60,001	to	62,000	338
62,001	to	64,000	351
64,001	to	66,000	358
66,001	to	68,000	371
68,001	to	70,000	378
70,001	to	72,000	392
72,001	to	74,000	398
74,001	to	76,000	412
76,001	to	78,000	419
78,001	to	80,000	432
80,001	to	82,000	439
82,001	to	84,000	452
84,001	to	86,000	459
86,001	to	88,000	473
88,001	to	90,000	479
90,001	to	92,000	493
92,001	to	94,000	500
94,001	to	96,000	513
96,001	to	98,000	520
98,001	to	100,000	527
100,001	to	102,000	540
102,001	to	104,000	547
104,001	to	105,500	560

(B)(i) For the period beginning January 1, 2018, and ending December 31, 2019, the registration fee for motor vehicles that are certified under ORS 822.205, unless the motor vehicles are registered under paragraph (a) of this subsection, or that are used exclusively to transport manufactured structures, is as provided in the following chart:

Weight in Pounds			Fee
8,000	or	less	$ 56
8,001	to	10,000	130
10,001	to	12,000	155
12,001	to	14,000	168
14,001	to	16,000	194
16,001	to	18,000	207
18,001	to	20,000	232
20,001	to	22,000	245
22,001	to	24,000	272
24,001	to	26,000	284
26,001	to	28,000	310
28,001	to	30,000	324
30,001	to	32,000	349
32,001	to	34,000	362
34,001	to	36,000	389
36,001	to	38,000	401
38,001	to	40,000	427
40,001	to	42,000	439
42,001	to	44,000	466
44,001	to	46,000	479
46,001	to	48,000	491
48,001	to	50,000	517
50,001	to	52,000	544
52,001	to	54,000	556
54,001	to	56,000	569
56,001	to	58,000	594
58,001	to	60,000	621
60,001	to	62,000	646
62,001	to	64,000	673
64,001	to	66,000	686
66,001	to	68,000	711
68,001	to	70,000	724
70,001	to	72,000	751
72,001	to	74,000	763
74,001	to	76,000	789
76,001	to	78,000	801
78,001	to	80,000	828
80,001	to	82,000	841
82,001	to	84,000	866
84,001	to	86,000	879
86,001	to	88,000	906
88,001	to	90,000	918
90,001	to	92,000	944
92,001	to	94,000	958
94,001	to	96,000	983
96,001	to	98,000	996
98,001	to	100,000	1,008
100,001	to	102,000	1,035
102,001	to	104,000	1,048
104,001	to	105,500	1,073

(ii) For the period beginning on January 1, 2020, and ending on December 31, 2021, the registration fee for motor vehicles that are certified under ORS 822.205, unless the motor vehicles are registered under paragraph (a) of this subsection, or that are used exclusively to transport manufactured structures, is as provided in the following chart:

Weight in Pounds			Fee
8,000	or	less	$ 61
8,001	to	10,000	138
10,001	to	12,000	165

12,001	to	14,000	178
14,001	to	16,000	207
16,001	to	18,000	220
18,001	to	20,000	247
20,001	to	22,000	261
22,001	to	24,000	289
24,001	to	26,000	302
26,001	to	28,000	329
28,001	to	30,000	344
30,001	to	32,000	371
32,001	to	34,000	385
34,001	to	36,000	413
36,001	to	38,000	427
38,001	to	40,000	454
40,001	to	42,000	467
42,001	to	44,000	495
44,001	to	46,000	509
46,001	to	48,000	522
48,001	to	50,000	549
50,001	to	52,000	578
52,001	to	54,000	591
54,001	to	56,000	605
56,001	to	58,000	632
58,001	to	60,000	660
60,001	to	62,000	687
62,001	to	64,000	716
64,001	to	66,000	729
66,001	to	68,000	756
68,001	to	70,000	770
70,001	to	72,000	798
72,001	to	74,000	811
74,001	to	76,000	838
76,001	to	78,000	852
78,001	to	80,000	880
80,001	to	82,000	894
82,001	to	84,000	921
84,001	to	86,000	934
86,001	to	88,000	963
88,001	to	90,000	976
90,001	to	92,000	1,003
92,001	to	94,000	1,018
94,001	to	96,000	1,045
96,001	to	98,000	1,058
98,001	to	100,000	1,072
100,001	to	102,000	1,100
102,001	to	104,000	1,114
104,001	to	105,500	1,141

(C) The owner of a vehicle described in subparagraph (A) or (B) of this paragraph must certify at the time of initial registration, in a manner determined by the department by rule, that the motor vehicle will be used exclusively to transport manufactured structures or exclusively as described in ORS 822.210, unless the motor vehicle is registered under paragraph (a) of this subsection, or as described in ORS 825.015 or 825.017 (13). Registration of a vehicle described in subparagraph (A) or (B) of this paragraph is invalid if the vehicle is operated in any manner other than that described in the certification under this subparagraph.

(c)(A) For the period beginning on January 1, 2018, and ending on December 31, 2019, subject to paragraph (d) of this subsection, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as provided in the following chart, based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

Weight in Pounds			Fee
8,000	or	less	$ 44
8,001	to	10,000	58
10,001	to	12,000	67
12,001	to	14,000	86
14,001	to	16,000	97
16,001	to	18,000	116
18,001	to	20,000	126
20,001	to	22,000	145
22,001	to	24,000	154
24,001	to	26,000	174
26,001	to	28,000	183
28,001	to	30,000	202
30,001	to	32,000	212
32,001	to	34,000	231
34,001	to	36,000	241
36,001	to	38,000	260
38,001	to	40,000	271
40,001	to	42,000	290
42,001	to	44,000	298
44,001	to	46,000	319
46,001	to	48,000	328
48,001	to	50,000	347
50,001	to	52,000	357
52,001	to	54,000	366
54,001	to	56,000	386
56,001	to	58,000	405
58,001	to	60,000	414
60,001	to	62,000	424
62,001	to	64,000	443
64,001	to	66,000	462
66,001	to	68,000	472
68,001	to	70,000	483
70,001	to	72,000	502
72,001	to	74,000	511
74,001	to	76,000	531
76,001	to	78,000	540
78,001	to	80,000	559
80,001	to	82,000	569
82,001	to	84,000	588
84,001	to	86,000	598
86,001	to	88,000	617
88,001	to	90,000	626
90,001	to	92,000	646
92,001	to	94,000	655
94,001	to	96,000	674
96,001	to	98,000	685
98,001	to	100,000	704
100,001	to	102,000	714
102,001	to	104,000	733
104,001	to	105,500	743

(B) For the period beginning on January 1, 2020, and ending on December 31, 2021, subject to paragraph (d) of this subsection, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as provided in the following chart, based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

Weight in Pounds			Fee
8,000	or	less	$ 47
8,001	to	10,000	62
10,001	to	12,000	72
12,001	to	14,000	92
14,001	to	16,000	103
16,001	to	18,000	123
18,001	to	20,000	134
20,001	to	22,000	154
22,001	to	24,000	163
24,001	to	26,000	185
26,001	to	28,000	194
28,001	to	30,000	215
30,001	to	32,000	225
32,001	to	34,000	246
34,001	to	36,000	257
36,001	to	38,000	277
38,001	to	40,000	288
40,001	to	42,000	308
42,001	to	44,000	317
44,001	to	46,000	339
46,001	to	48,000	348
48,001	to	50,000	369
50,001	to	52,000	379
52,001	to	54,000	389
54,001	to	56,000	410
56,001	to	58,000	431
58,001	to	60,000	440
60,001	to	62,000	451
62,001	to	64,000	471
64,001	to	66,000	491
66,001	to	68,000	502
68,001	to	70,000	513
70,001	to	72,000	533
72,001	to	74,000	543
74,001	to	76,000	564
76,001	to	78,000	574
78,001	to	80,000	594
80,001	to	82,000	605
82,001	to	84,000	625
84,001	to	86,000	636
86,001	to	88,000	656
88,001	to	90,000	666
90,001	to	92,000	687
92,001	to	94,000	697
94,001	to	96,000	717
96,001	to	98,000	728
98,001	to	100,000	748
100,001	to	102,000	759
102,001	to	104,000	779
104,001	to	105,500	790

(d) For any vehicle that is registered under a quarterly registration period, the registration fee is a minimum of $15 for each quarter registered plus an additional fee of $2.

(15) The registration and renewal fees for vehicles specified in this subsection that are required to establish a registration weight under ORS 803.430 or 826.013 are as follows:

(a) State-owned vehicles registered under ORS 805.045, $10.

(b) Undercover vehicles registered under ORS 805.060, $10. [1983 c.338 §226; 1985 c.16 §85; 1985 c.177 §2; 1985 c.189 §2; 1985 c.245 §2; 1985 c.253 §4; 1985 c.401 §6; 1985 c.547 §13; 1987 c.6 §2; 1987 c.25 §3; 1987 c.440 §3; 1987 c.750 §7; 1989 c.43 §23; 1989 c.723 §§8,8a; 1989 c.864 §7; 1989 c.865 §§7,7a,7b,7c,7d,7e,7f; 1989 c.992 §§11,11a,11b,11c; 1991 c.284 §17; 1991 c.497 §13; 1991 c.880 §10; 1993 c.174 §7; 1993 c.662 §3; 1993 c.751 §23a; 1995 c.447 §3; 2001 c.124 §3; 2001 c.293 §6; 2003 c.589 §7; 2003 c.618 §2; 2003 c.655 §112; 2005 c.280 §3; 2007 c.664 §1; 2007 c.693 §3d; 2009 c.865 §§43,43a; 2011 c.287 §3; 2015 c.283 §4; 2017 c.750 §34; 2018 c.114 §3; 2019 c.491 §16]

Note: The amendments to 803.420 by section 35, chapter 750, Oregon Laws 2017, become operative January 1, 2022, and apply to registration fees imposed on or after January 1, 2022. See section 36, chapter 750, Oregon Laws 2017, and section 139, chapter 750, Oregon Laws 2017, as amended by section 31, chapter 93, Oregon Laws 2018. The text that is operative on and after January 1, 2022, including amendments by section 4, chapter 114, Oregon Laws 2018, and section 17, chapter 491, Oregon Laws 2019, is set forth for the user's convenience.

803.420. (1) The vehicle registration fees imposed under this section shall be based on the classifications determined by the Department of Transportation by rule. The department may classify a vehicle to ensure that registration fees for the vehicle are the same as for other vehicles the department determines to be comparable.

(2) Except as otherwise provided in this section, or unless the vehicle is registered quarterly, the fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415. For a vehicle registered for a quarterly registration period under ORS 803.415, the department shall apportion any fee under this section to reflect the number of quarters registered.

(3) Vehicle registration fees are due when a vehicle is registered and when the registered owner renews the registration.

(4) In addition to the registration fees listed in this section, a county or a district may impose an additional registration fee as provided under ORS 801.041 and 801.042.

(5) A rental or leasing company, as defined in ORS 221.275, that elects to initially register a vehicle for an annual or biennial registration period shall pay a fee of $2 in addition to the vehicle registration fee provided under this section.

(6) The registration fees for each year of the registration period for vehicles subject to biennial registration are as follows:

(a) Passenger vehicles not otherwise provided for in this section or ORS 821.320, $43.

(b) Utility trailers or light trailers, as those terms are defined by rule by the department, $63.

(c) Mopeds and motorcycles, $44.

(d) Low-speed vehicles, $63.

(e) Medium-speed electric vehicles, $63.

(7) The registration fees for vehicles that are subject to biennial registration and that are listed in this subsection are as follows:

(a) State-owned vehicles registered under ORS 805.045 and undercover vehicles registered under ORS 805.060, $10 upon registration or renewal.

(b) Fixed load vehicles:

(A) If a declaration of weight described under ORS 803.435 is submitted establishing the weight of the vehicle at 3,000 pounds or less, $61.

(B) If no declaration of weight is submitted or if the weight of the vehicles is in excess of 3,000 pounds, $82.

(c) Travel trailers, special use trailers, campers and motor homes, based on length as determined under ORS 803.425:

(A) Trailers or campers that are 6 to 10 feet in length, $81.

(B) Trailers or campers over 10 feet in length, $81 plus $6.75 a foot for each foot of length over the first 10 feet.

(C) Motor homes that are 6 to 14 feet in length, $86.

(D) Motor homes over 14 feet in length, $126 plus $7.50 a foot for each foot of length over the first 10 feet.

(8) The registration fee for trailers for hire that are equipped with pneumatic tires made of an elastic material and that are not travel trailers or trailers registered under permanent registration is $30.

(9) The registration fees for vehicles subject to ownership registration are as follows:

(a) Government-owned vehicles registered under ORS 805.040, $5.

(b) Vehicles registered with special registration for disabled veterans under ORS 805.100 or for former prisoners of war under ORS 805.110, $15.

(c) School vehicles registered under ORS 805.050, $5.

(10) The registration fees for vehicles subject to permanent registration are as follows:

(a) Antique vehicles registered under ORS 805.010, $100.

(b) Vehicles of special interest registered under ORS 805.020, $100.

(c) Racing activity vehicles registered under ORS 805.035, $100.

(d) Trailers, $10.

(e) State-owned vehicles registered under ORS 805.045 and undercover vehicles registered under ORS 805.060, $10.

(11) The registration fee for trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500 is the same fee as the fee for vehicles of the same type registered under other provisions of the Oregon Vehicle Code.

(12) The registration fee for vehicles with proportional registration under ORS 826.009, or proportional fleet registration under ORS 826.011, is the same fee as the fee for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 826.007.

(13) In addition to any other registration fees charged for registration of vehicles in fleets under ORS 805.120, the department may charge the following fees:

(a) Service charge for each vehicle entered into a fleet, $3.

(b) Service charge for each vehicle in the fleet at the time of renewal, $2.

(14)(a) The registration fee for motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, tow vehicles used to transport property for hire other than as described in ORS 822.210 and commercial buses is as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

Weight in Pounds			Fee
8,000	or	less	$ 74
8,001	to	10,000	464
10,001	to	12,000	528
12,001	to	14,000	591
14,001	to	16,000	655
16,001	to	18,000	718
18,001	to	20,000	801
20,001	to	22,000	864
22,001	to	24,000	949
24,001	to	26,000	1,031
26,001	to	28,000	375
28,001	to	30,000	391
30,001	to	32,000	422
32,001	to	34,000	438
34,001	to	36,000	468
36,001	to	38,000	485
38,001	to	40,000	515
40,001	to	42,000	532
42,001	to	44,000	562
44,001	to	46,000	578
46,001	to	48,000	593
48,001	to	50,000	625
50,001	to	52,000	656
52,001	to	54,000	672
54,001	to	56,000	686
56,001	to	58,000	717
58,001	to	60,000	750
60,001	to	62,000	780
62,001	to	64,000	811
64,001	to	66,000	827
66,001	to	68,000	857
68,001	to	70,000	874
70,001	to	72,000	904
72,001	to	74,000	921
74,001	to	76,000	951
76,001	to	78,000	967
78,001	to	80,000	998
80,001	to	82,000	1,014
82,001	to	84,000	1,045
84,001	to	86,000	1,061
86,001	to	88,000	1,092
88,001	to	90,000	1,108
90,001	to	92,000	1,139
92,001	to	94,000	1,155
94,001	to	96,000	1,185
96,001	to	98,000	1,202
98,001	to	100,000	1,218
100,001	to	102,000	1,249
102,001	to	104,000	1,265
104,001	to	105,500	1,295

(b)(A) The registration fee for motor vehicles with a registration weight of more than 8,000 pounds that are described in ORS 825.015, that are operated by a charitable organization as defined in ORS 825.017 (13), is as provided in the following chart:

Weight in Pounds			Fee
8,001	to	10,000	$ 71
10,001	to	12,000	85
12,001	to	14,000	92
14,001	to	16,000	107
16,001	to	18,000	114
18,001	to	20,000	128
20,001	to	22,000	135
22,001	to	24,000	149
24,001	to	26,000	156
26,001	to	28,000	170
28,001	to	30,000	178
30,001	to	32,000	192
32,001	to	34,000	199
34,001	to	36,000	213
36,001	to	38,000	220
38,001	to	40,000	234
40,001	to	42,000	241
42,001	to	44,000	256
44,001	to	46,000	263
46,001	to	48,000	270
48,001	to	50,000	284
50,001	to	52,000	298
52,001	to	54,000	305

54,001	to	56,000	312
56,001	to	58,000	327
58,001	to	60,000	341
60,001	to	62,000	355
62,001	to	64,000	369
64,001	to	66,000	376
66,001	to	68,000	391
68,001	to	70,000	398
70,001	to	72,000	412
72,001	to	74,000	419
74,001	to	76,000	433
76,001	to	78,000	440
78,001	to	80,000	454
80,001	to	82,000	462
82,001	to	84,000	476
84,001	to	86,000	483
86,001	to	88,000	497
88,001	to	90,000	504
90,001	to	92,000	518
92,001	to	94,000	525
94,001	to	96,000	540
96,001	to	98,000	547
98,001	to	100,000	554
100,001	to	102,000	568
102,001	to	104,000	575
104,001	to	105,500	589

(B) The registration fee for motor vehicles that are certified under ORS 822.205, unless the motor vehicles are registered under paragraph (a) of this subsection, or that are used exclusively to transport manufactured structures, is as provided in the following chart:

Weight in Pounds			Fee
8,000	or	less	$ 63
8,001	to	10,000	145
10,001	to	12,000	173
12,001	to	14,000	187
14,001	to	16,000	217
16,001	to	18,000	231
18,001	to	20,000	260
20,001	to	22,000	274
22,001	to	24,000	304
24,001	to	26,000	318
26,001	to	28,000	346
28,001	to	30,000	362
30,001	to	32,000	391
32,001	to	34,000	405
34,001	to	36,000	435
36,001	to	38,000	449
38,001	to	40,000	477
40,001	to	42,000	491
42,001	to	44,000	521
44,001	to	46,000	535
46,001	to	48,000	550
48,001	to	50,000	578
50,001	to	52,000	608
52,001	to	54,000	622
54,001	to	56,000	636
56,001	to	58,000	665
58,001	to	60,000	694
60,001	to	62,000	723
62,001	to	64,000	753
64,001	to	66,000	767
66,001	to	68,000	795
68,001	to	70,000	809
70,001	to	72,000	839
72,001	to	74,000	853
74,001	to	76,000	882
76,001	to	78,000	896
78,001	to	80,000	926
80,001	to	82,000	940
82,001	to	84,000	968
84,001	to	86,000	983
86,001	to	88,000	1,012
88,001	to	90,000	1,027
90,001	to	92,000	1,055
92,001	to	94,000	1,071
94,001	to	96,000	1,099
96,001	to	98,000	1,113
98,001	to	100,000	1,127
100,001	to	102,000	1,157
102,001	to	104,000	1,172
104,001	to	105,500	1,200

(C) The owner of a vehicle described in subparagraph (A) or (B) of this paragraph must certify at the time of initial registration, in a manner determined by the department by rule, that the motor vehicle will be used exclusively to transport manufactured structures or exclusively as described in ORS 822.210, unless the motor vehicle is registered under paragraph (a) of this subsection, or as described in ORS 825.015 or 825.017 (13). Registration of a vehicle described in subparagraph (A) or (B) of this paragraph is invalid if the vehicle is operated in any manner other than that described in the certification under this subparagraph.

(c) Subject to paragraph (d) of this subsection, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as provided in the following chart, based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

Weight in Pounds			Fee
8,000	or	less	$ 50
8,001	to	10,000	65
10,001	to	12,000	75
12,001	to	14,000	97
14,001	to	16,000	108
16,001	to	18,000	129
18,001	to	20,000	141
20,001	to	22,000	162
22,001	to	24,000	172
24,001	to	26,000	195
26,001	to	28,000	204
28,001	to	30,000	226
30,001	to	32,000	237
32,001	to	34,000	258
34,001	to	36,000	270
36,001	to	38,000	291
38,001	to	40,000	302
40,001	to	42,000	324
42,001	to	44,000	334
44,001	to	46,000	356
46,001	to	48,000	366
48,001	to	50,000	388
50,001	to	52,000	399
52,001	to	54,000	409
54,001	to	56,000	432
56,001	to	58,000	453
58,001	to	60,000	463
60,001	to	62,000	474
62,001	to	64,000	496
64,001	to	66,000	517
66,001	to	68,000	528
68,001	to	70,000	540
70,001	to	72,000	561
72,001	to	74,000	571
74,001	to	76,000	594
76,001	to	78,000	604
78,001	to	80,000	625
80,001	to	82,000	636
82,001	to	84,000	657
84,001	to	86,000	669
86,001	to	88,000	690
88,001	to	90,000	700
90,001	to	92,000	723
92,001	to	94,000	733
94,001	to	96,000	754

96,001	to	98,000	765
98,001	to	100,000	787
100,001	to	102,000	798
102,001	to	104,000	819
104,001	to	105,500	831

(d) For any vehicle that is registered under a quarterly registration period, the registration fee is a minimum of $15 for each quarter registered plus an additional fee of $2.

(15) The registration and renewal fees for vehicles specified in this subsection that are required to establish a registration weight under ORS 803.430 or 826.013 are as follows:

(a) State-owned vehicles registered under ORS 805.045, $10.

(b) Undercover vehicles registered under ORS 805.060, $10.

803.422 Registration fees based on miles per gallon. (1) As used in this section, "miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.

(2) The Department of Transportation shall determine the combined MPG ratings for each motor vehicle pursuant to a method determined by the department.

(3) Except as provided in ORS 319.890 (3), in addition to the registration fees prescribed under ORS 803.420 (6)(a), during the period beginning on January 1, 2018, and ending on December 31, 2019, there shall be paid for each year of the registration period an additional amount of $13.

(4) Except as provided in ORS 319.890 (3), in addition to the registration fees prescribed under ORS 803.420 (6)(a), during the period beginning on January 1, 2020, and ending on December 31, 2021, there shall be paid for each year of the registration period, an additional amount as follows:

(a) For vehicles that have a rating of 0-19 MPG, $18.

(b) For vehicles that have a rating of 20-39 MPG, $23.

(c) For vehicles that have a rating of 40 MPG or greater, $33.

(d) For electric vehicles, $110. [2017 c.750 §32]

Note: The amendments to 803.422 by section 33, chapter 750, Oregon Laws 2017, become operative January 1, 2022, and apply to fees imposed on or after January 1, 2022. See section 39, chapter 750, Oregon Laws 2017, and section 139, chapter 750, Oregon Laws 2017, as amended by section 31, chapter 93, Oregon Laws 2018. The text that is operative on and after January 1, 2022, is set forth for the user's convenience.

803.422. (1) As used in this section, "miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.

(2) The Department of Transportation shall determine the combined MPG ratings for each motor vehicle pursuant to a method determined by the department.

(3) Except as provided in ORS 319.890 (3), in addition to the registration fees prescribed under ORS 803.420 (6)(a), there shall be paid for each year of the registration period, an additional amount as follows:

(a) For vehicles that have a rating of 0-19 MPG, $20.

(b) For vehicles that have a rating of 20-39 MPG, $25.

(c) For vehicles that have a rating of 40 MPG or greater, $35.

(d) For electric vehicles, $115.

Note: 803.422 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

803.425 Vehicle length for fee determination. The following are the measurement points of the described vehicles for the purposes of determining registration fees under ORS 803.420:

(1) Special use trailers and travel trailers are measured from the foremost point of the trailer hitch to the rear extremity of the trailer body not including the spare tire, but including all ordinary equipment or appliances appropriate to the type of body such as stakes, curtains, hooks, skids, tailboard, chains, sides and roof.

(2) Campers are measured by overall length from the extreme front to the extreme rear.

(3) Motor homes are measured by overall length from front to rear extremities.

(4) Tent trailers are measured by overall length when folded for travel. [1983 c.338 §229; 1985 c.16 §86]

803.430 Certain vehicles required to establish registration weight for fee determination. (1) Registration weight is established for the following purposes:

(a) The registration weight is the weight used in the declaration of weight under ORS 803.435 to determine the registration fees under ORS 803.420 for vehicles required to establish registration weight under this section.

(b) A vehicle that is required to establish registration weight by this section is in violation of ORS 803.315 if the vehicle is operated on a highway of this state at a weight in excess of the registration weight except when carrying a load:

(A) Under the provisions of ORS 376.305 to 376.390;

(B) Of over 105,500 pounds combined weight or loaded weight under a variance permit issued under ORS 818.200;

(C) Under a registration weight trip permit issued under ORS 803.600; or

(D) Consisting of towed motor vehicles required to be registered under the vehicle code.

(2) Registration weight is established at the time of registration and whenever the vehicle has been altered or reconstructed by furnishing a declaration of weight described under ORS 803.435 that contains a declaration of the maximum combined weight or loaded weight at which the vehicle will be operated on the highways of this state except when carrying loads described under subsection (1)(b) of this section. The maximum registration weight for any vehicle required to establish a registration weight under this section is 105,500 pounds. Vehicles operating at weights above 105,500 pounds will operate under a variance permit issued under ORS 818.200.

(3) Except as provided in subsection (4) of this section, the following vehicles are required to establish a registration weight under this section:

(a) Any motor truck that will be operated on the highways at a combined weight or loaded weight of more than 10,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section, or any trailing manufactured structure.

(b) Any truck tractor that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section, or any trailing manufactured structure.

(c) An armored car, tow vehicle, hearse or ambulance.

(d) Any other motor vehicle that will be operated on the highways at a combined weight or loaded weight of more than 10,000 pounds not including the weight of any camper or trailing vehicle as described in subsection (5) of this section, or any trailing manufactured structure.

(e) A self-propelled mobile crane.

(f) Any motor vehicle registered as a farm vehicle under ORS 805.300.

(4) A vehicle that is being registered under a specific provision of the vehicle code where fees are not based on weight or where registration weight is specifically not required is not required to establish registration weight under this section.

(5) The weight of a camper or the following trailing vehicles may not be included in the registration weight:

(a) Trailers with a loaded weight of 8,000 pounds or less.

(b) Special use trailers, travel trailers and fixed load vehicles.

(c) Towed motor vehicles.

(6) The weight of a trailing manufactured structure may not be included in the registration weight. [1983 c.338 §230; 1985 c.16 §87; 1985 c.71 §3; 1985 c.172 §6; 1989 c.723 §9; 1991 c.284 §18; 1993 c.751 §24; 2003 c.655 §113; 2005 c.654 §17; 2005 c.770 §2; 2007 c.50 §2]

803.435 Declaration of weight for fee determination; contents. A declaration of weight required for purposes of complying with ORS 803.440 and for purposes of determining vehicle registration fees under ORS 803.420 shall contain the following:

(1) For vehicles required to establish a registration weight under ORS 803.430, the declaration shall contain the registration weight.

(2) For buses, the declaration shall contain the unloaded weight of the vehicle plus the unloaded weight of any bus trailer to be used in combination with the vehicle. The declaration shall also indicate the number of persons, including the driver, to be carried in the vehicle, plus the number of persons to be carried on any bus trailer to be used in combination with the vehicle.

(3) For fixed load vehicles, the declaration shall contain the weight of the vehicle including the cab, chassis, frame and all appurtenances necessary for making the vehicle self-propelled including front bumpers, fenders, windshield, tire carrier and spare wheel, and including the fixed or permanent load of the vehicle but excluding the spare tire.

(4) For tow vehicles that are used to transport property for hire other than as described in ORS 822.210, the declaration shall contain the combined weight at which the vehicle will be used to transport property for hire.

(5) For all vehicles not otherwise provided for by this section and for which a declaration is prepared or required, the declaration shall contain the registration weight of the vehicle. [1983 c.338 §231; 1985 c.16 §88; 1985 c.189 §3; 1989 c.723 §10; 1989 c.992 §12c; 1993 c.18 §168; 1993 c.751 §25; 2011 c.287 §4; 2017 c.45 §3]

803.440 Failure to submit declaration of weight; penalty. (1) A person commits the offense of failure to submit a declaration of weight if the person does not submit a declaration of weight for a vehicle described in this subsection when the person applies for registration of the vehicle or has the vehicle registered in the person's name and the vehicle has been altered or reconstructed. This section applies to the following vehicles:

(a) Any vehicle required to establish registration weight under ORS 803.430.

(b) Any commercial bus.

(c) Any vehicle registered as a farm vehicle under ORS 805.300.

(d) Any vehicle registered under the proportional registration provisions of ORS 826.009 or 826.011.

(2) The offense described in this section, failure to submit a declaration of weight, is a Class D traffic violation. [1983 c.338 §232; 1989 c.43 §24; 1989 c.723 §11; 1993 c.751 §26]

803.445 Authority of counties and districts to impose registration fees; rules; maximum amount. (1) The governing body of a county may impose registration fees for vehicles as provided in ORS 801.041.

(2) The governing body of a district may impose registration fees for vehicles as provided in ORS 801.042.

(3) The Department of Transportation shall provide by rule for the administration of laws authorizing county and district registration fees and for the collection of those fees.

(4) Any registration fee imposed under this section shall be imposed in a manner consistent with ORS 803.420.

(5) A county or district may not impose a vehicle registration fee that would by itself, or in combination with any other vehicle registration fee imposed under this section, exceed the sum of the fee imposed under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. The owner of any vehicle subject to multiple fees under this section shall be allowed a credit or credits with respect to one or more of such fees so that the total of such fees does not exceed the sum of the fee imposed under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. [1989 c.864 §2; 2017 c.750 §39f; 2018 c.93 §23]

Note: Sections 5 and 6, chapter 491, Oregon Laws 2019, provide:

Sec. 5. Section 6 of this 2019 Act is added to and made a part of the Oregon Vehicle Code. [2019 c.491 §5]

Sec. 6. Notwithstanding ORS 803.445 (5), a metropolitan service district established under ORS chapter 268 may impose a vehicle registration fee that does not exceed the sum of the fee imposed under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422, if the vehicle registration fee is approved by the electors of the district before December 31, 2022. [2019 c.491 §6]

(Renewal)

803.450 Notice of pending expiration; exceptions; effect of failure to receive; records. (1) The Department of Transportation shall notify the registered owner of a vehicle registered by this state of the approaching expiration of the vehicle's registration. The notice required by this subsection shall comply with all of the following:

(a) The notice shall be mailed to the owner of the vehicle at the postal address shown in department records. Upon request of the registered owner the department may provide notice by electronic mail or other means.

(b) The notice shall be provided a reasonable time before expiration date of the registration.

(2) The department shall not be required to notify the registered owner of an approaching expiration if the department has reason to believe:

(a) The vehicle has been sold, wrecked or stolen;

(b) The registered owner is ineligible to renew the registration;

(c) There is a dispute with regard to the title of the vehicle; or

(d) The registered owner failed to notify the department of a change of address as required by ORS 803.220.

(3) Failure to receive notice of expiration from the department is not a defense to a charge of driving with an expired vehicle registration. However, the court may dismiss the charge if the owner registers the vehicle before the scheduled court appearance.

(4) Department records concerning notice under this section are subject to ORS 802.210. [1983 c.338 §233; 1985 c.253 §5; 1989 c.43 §25; 1993 c.751 §91; 1995 c.733 §85; 2015 c.404 §3]

803.455 Failure to renew; fee; penalty. (1) A person commits the offense of failure to renew vehicle registration if the registration period for a vehicle registered in the person's name expires and the person does not pay the fee required for renewal of registration.

(2) This section does not apply if the vehicle is no longer required or qualified to be registered in this state when the registration period expires.

(3) The fee required to be paid for renewal of registration under this section is the same fee that is required for registration of the vehicle under ORS 803.420.

(4) The offense described in this section, failure to renew vehicle registration, is a Class D traffic violation. [1983 c.338 §234; 1985 c.16 §89; 1985 c.305 §11]

803.460 Proof of compliance with financial responsibility requirements; rules. The Department of Transportation shall not renew the registration of a motor vehicle unless one of the following occurs:

(1) The owner of the vehicle provides proof of compliance with financial responsibility requirements for the vehicle and certifies that the owner will remain in

compliance with the requirements for the term of the registration or until the vehicle is sold. This subsection does not apply if a renewal of registration is accompanied by an application for transfer of title arising from the sale of the vehicle. Exemptions from this subsection are established in ORS 806.020. The form of proof of compliance required for this subsection shall be as required under ORS 806.180.

(2) The department receives satisfactory proof of compliance with financial responsibility requirements by some means other than the means described in subsection (1) of this section. The department may determine by rule what constitutes satisfactory proof of compliance with financial responsibility requirements for purposes of this subsection. [1983 c.338 §235; 1985 c.714 §7; 1993 c.751 §92; 2019 c.312 §9]

803.465 Proof of compliance with pollution control equipment requirements. The Department of Transportation shall not issue renewal of registration unless the department receives proof of compliance with pollution control equipment requirements under ORS 815.310. This section is not applicable to vehicles exempt from the requirements of this section by ORS 815.300 or to vehicles registered under the provisions of ORS 805.045 or 805.060. [1983 c.338 §236; 1985 c.16 §90; 1987 c.440 §4; 1989 c.22 §2]

803.470 [1983 c.338 §237; 1985 c.174 §3; repealed by 1991 c.459 §438L]

803.473 Effect of unpaid registration fees on issuance of duplicate or replacement certificate of title. On and after September 29, 1991, the Department of Transportation shall not refuse to renew registration, transfer the certificate of title or issue a duplicate or replacement certificate of title for a camper or travel trailer solely on the grounds that prior to September 29, 1991, the owner of the camper or travel trailer owed unpaid registration fees to the department. [1991 c.459 §438m]

Note: 803.473 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

803.475 [1985 c.251 §22; 1991 c.873 §16; repealed by 1993 c.751 §106]

803.478 Donation to Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program. (1) A person that applies for the renewal of vehicle registration online may make a contribution of $1 or more to the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program at the time the online application for renewal of vehicle registration is made.

(2) The vehicle registration renewal website and online application form must state that the owner has the option of making a contribution to the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program.

(3) Moneys contributed to the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program in accordance with this section shall be deposited in the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program Fund. [2013 c.779 §6]

Note: 803.478 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Cards)

803.500 Registration card; contents. The Department of Transportation shall furnish for each vehicle and camper registered by the department, a registration card that shows all of the following information:

(1) The name of the registered owner.

(2) The make.

(3) The year model.

(4) The vehicle identification number as denoted by the title issued for the vehicle or camper.

(5) The mileage of the vehicle as reported to the department at the time the most recent title transfer was reported to the department, or the mileage reported to the department at the time the vehicle was initially titled in Oregon, whichever occurred last.

(6) The word "totaled" if the vehicle has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

(7) Any other information required by the department.

(8) Notwithstanding subsection (7) of this section, after receiving the registration card from the department, the registered owner may black out or otherwise obscure the residence address, business address, mailing address or vehicle address shown on the registration card. No other information on the registration card may be blacked out or otherwise obscured. [1983 c.338 §254; 1985 c.251 §25; 1985 c.253 §6; 1985 c.668 §11; 1989 c.43 §26; 1991 c.820 §10; 1991 c.873 §16a; 1993 c.233 §49; 1993 c.751 §93; 2017 c.471 §1]

803.505 Failure to carry registration card; penalty. (1) The owner of a vehicle that is registered in this state commits the offense of failure to carry a registration card if the owner does not place and keep the

card in or on the vehicle in a manner that makes it readily available for police inspection upon request.

(2) The following apply to the offense described in this section:

(a) The owner of a commercial vehicle is not in violation of this section if a photocopy of the card is used.

(b) In the case of a camper, the owner shall keep the registration card in the transporting vehicle.

(c) In the case of a snowmobile the registration card or certificate shall be in a place that is readily accessible whether or not the snowmobile is in operation.

(3) The offense described in this section, failure to carry a registration card, is a Class D traffic violation. [1983 c.338 §255; 1987 c.217 §3; 1989 c.991 §27; 1993 c.751 §94; 1995 c.383 §40; 1995 c.774 §13; 1999 c.977 §21]

803.510 Duplicate or replacement; fee. The Department of Transportation may issue a duplicate or replacement registration card when:

(1) The department receives an application indicating the loss, mutilation or destruction of a registration card; and

(2) The fee for issuance of a duplicate or replacement card established under ORS 803.575 is paid to the department. [1983 c.338 §256; 1985 c.174 §4; 1985 c.253 §7a]

(Plates)

803.520 Issuance; fees. The Department of Transportation shall issue and deliver to the owner registration plates according to the following:

(1) Registration plates shall be issued upon filing of application for registration and payment of the appropriate registration and registration plate fees unless the department has just cause for refusing to register a vehicle or unless otherwise provided in this section.

(2) If an application for title or registration is for a vehicle that is subject to the provisions of ORS 803.210, the department may issue a permit described under ORS 803.615 while the department is determining all facts relative to the applicant's right to receive title and may issue registration plates along with the title.

(3) Before issuance of registration plates, the department must receive the manufacturing and reflectorizing fee for the registration plates. If the registration plate is a special plate authorized under ORS 805.200, the fees for the registration plate issuance are as described in ORS 805.250.

(4) Except as otherwise authorized by ORS 805.200, registration plates issued shall be as described in ORS 803.535.

(5) The department shall issue the number of plates appropriate under ORS 803.525 and any stickers provided under ORS 803.555. [1983 c.338 §257; 1985 c.16 §99; 1987 c.146 §8; 1987 c.572 §6; 1993 c.233 §50; 1993 c.741 §119]

803.525 Number of plates issued. The Department of Transportation shall issue two registration plates for every vehicle that is registered by the department except as otherwise provided in this section. Upon renewal or when otherwise provided under ORS 803.555, the department may issue stickers in lieu of or in addition to registration plates. The following shall be issued plates as described:

(1) Only one registration plate shall be issued for a moped, motorcycle, trailer, antique vehicle or vehicle of special interest registered by the department.

(2) Only one plate shall be issued for a camper that is registered. Stickers may be issued in lieu of a plate. [1983 c.338 §258; 1985 c.668 §12; 1989 c.43 §27; 1991 c.407 §28; 1993 c.741 §119a; 2001 c.25 §1; 2003 c.655 §114]

803.530 Period of validity; transfer; replacement. (1) Registration plates assigned to a vehicle by the Department of Transportation shall remain with the vehicle to which the plates are assigned and are valid only during the registration period for which the plates are issued except as provided in this section.

(2) The department may allow registration plates to be transferred to another vehicle if:

(a) The department receives an application;

(b) The applicant pays the plate transfer fee under ORS 803.575; and

(c) The applicant complies with the registration qualifications described in ORS 803.350.

(3) The department shall transfer registration plates under this section if the applicant and the vehicle qualify for the plates and the plates are:

(a) Legible and capable of being used for identification purposes; and

(b) Any of the following:

(A) From a current issue of registration plates;

(B) Customized registration plates described under ORS 805.240;

(C) Oregon Trail commemorative registration plates issued under section 113, chapter 741, Oregon Laws 1993;

(D) Special registration plates issued under ORS 805.255, 805.260, 805.263, 805.266, 805.278 or 805.283;

(E) Group registration plates issued under ORS 805.205;

(F) Veterans' recognition registration plates issued under ORS 805.105;

(G) Pacific Wonderland registration plates issued under ORS 805.287; or

(H) Registration plates issued through the special registration program under ORS 805.222.

(4) Notwithstanding ORS 803.400, when registration plates are transferred from one vehicle to another vehicle owned by the same person, the registration period represented by the plates also transfers with the plates. When registration plates are transferred from one vehicle to another vehicle not owned by the same person, the remaining registration period represented by the transferred plates ceases for both the vehicle receiving the transferred plates and the vehicle from which the plates were removed.

(5) The owner of a registered vehicle to which a plate is assigned may replace a registration plate. The following apply to this subsection:

(a) To replace a plate under this subsection, the owner must apply to the department for replacement of the plate in a form prescribed by the department and pay the replacement plate fee established under ORS 803.575.

(b) The department, in lieu of replacement, may issue duplicate plates for the same fee as charged for replacements.

(c) The plates issued under this subsection are valid only for the period of the plates replaced.

(6) A county may replace a registration plate that is from a specially designed government series with a registration plate that is from a regular series. The following apply to this subsection:

(a) To replace a plate under this subsection, the county must apply to the department for replacement of the plate in a form prescribed by the department and pay the replacement plate fee established under ORS 803.575.

(b) The plates issued under this subsection are valid only for the period of the plates replaced.

(7) If the department retired the vehicle's registration under ORS 819.030 because the vehicle is totaled or substantially altered, a person may apply under subsection (2) of this section to transfer the registration plates to another vehicle.

(8) Subject to subsections (2) and (4) of this section, after the department authorizes the use of special interest plates under ORS 805.210, a person may apply to transfer the plates to either:

(a) A vehicle that was previously determined by the department to qualify as a vehicle of special interest; or

(b) A vehicle approved by the department as a vehicle of special interest at the time of application.

(9) If a person described in subsection (8) of this section provides the department with only one special interest registration plate for transfer and the department's vehicle records show the special interest registration plate belongs to a vehicle record with no owner matching an applicant, the applicant shall provide proof, as determined by the department by rule, that the plate is no longer used on the vehicle it is currently showing being registered to in the department's vehicle records. [1983 c.338 §259; 1985 c.16 §100; 1985 c.174 §5; 1985 c.243 §3; 1985 c.570 §3; 1987 c.158 §163; 1993 c.741 §120; 2001 c.827 §3; 2003 c.409 §8; 2005 c.71 §1; 2015 c.540 §3; 2015 c.806 §17; 2018 c.114 §10; 2019 c.17 §3]

803.533 Period of validity for Oregon National Guard member or military reservist. (1) Notwithstanding ORS 803.530, a registration plate assigned to a vehicle registered to a member of the Oregon National Guard or a military reservist ordered on active duty and deployed to a location outside the United States that expires while the person is on active duty shall remain valid for 90 days following the termination of active duty.

(2) The court shall dismiss the charge of improper display of validating stickers under ORS 803.560 if, when charged, the person charged was the registered owner of the vehicle and a member of the Oregon National Guard or a military reservist, and the registration plate was valid pursuant to subsection (1) of this section. [2005 c.257 §4]

Note: 803.533 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

803.535 Size, form, material, color, design, contents. Subject to ORS 805.105 and 805.205 and the following, the Department of Transportation shall select registration plates it issues:

(1) Registration plates shall be in the size, form and arrangement and made of materials determined by the department subject to the following:

(a) Except as otherwise provided in paragraph (f) of this subsection, the design of the registration plates shall be that chosen by the commission from entries in the contest

held pursuant to chapter 572, Oregon Laws 1987.

(b) If registration plates are issued, means shall be provided for identifying the vehicle from the front and rear by means of characters or numerals.

(c) All plates shall be made with a reflective material, so as to be a fully reflectorized safety plate. The reflectorized material shall be of such a nature as to provide effective dependable brightness in the promotion of traffic safety during the service period of the plate issued.

(d) Except as otherwise authorized under ORS 805.200, all plates shall contain the distinctive number or characters assigned to the vehicle and the word "Oregon."

(e) When a pair of registration plates is issued, each plate shall bear the same identification as the other plate of the pair.

(f) The department may choose plates for vehicles that are not required to display plates from the series produced as provided in chapter 572, Oregon Laws 1987. Nothing in this paragraph prohibits the department from issuing plates from the series produced as provided in chapter 572, Oregon Laws 1987, for vehicles that are not required to display such plates.

(2) The department may provide for designation of the registration period for which the registration is issued on the plate by means of stickers described under ORS 803.555 or any other method the department determines appropriate.

(3) The department may provide plates that may be used on a vehicle for successive registration periods when validated by one or more stickers described under ORS 803.555. [1983 c.338 §260; 1985 c.16 §101; 1993 c.741 §121; 2007 c.564 §4]

803.537 [1987 c.572 §5; 1989 c.742 §5; repealed by 1993 c.741 §147]

803.538 Color of sky in graphic plates. Registration plates chosen by the commission pursuant to section 1, chapter 572, Oregon Laws 1987, shall have the colors chosen by the commission except that the sky shall be blue. [1989 c.742 §4]

803.540 Failure to display plates; exceptions; penalty. (1) A person commits the offense of failure to display registration plates if the person operates, on the highways of this state, any vehicle or camper that has been assigned registration plates by this state and the registration plates assigned to the vehicle or camper are displayed in a manner that violates any of the following:

(a) The plate must be displayed on the rear of the vehicle, if only one plate is required.

(b) Plates must be displayed on the front and rear of the vehicle if two plates are required.

(c) The plates must be in plain view and so as to be read easily by the public.

(d) The plate must not be any plate that does not entitle the holder thereof to operate the vehicle upon the highways.

(2) A person is not in violation of this section if the person is operating a vehicle or camper under and in accordance with the requirements for any of the following:

(a) A temporary application permit issued under ORS 803.615.

(b) An agent temporary registration permit issued under ORS 803.625.

(c) Provisions established under ORS 826.007, 826.009 or 826.011 for the display of registration plates or other evidence of registration on vehicles that are proportionally registered under ORS 826.009 or 826.011.

(3) The offense described in this section, failure to display registration plates, is a Class D traffic violation. [1983 c.338 §261; 1985 c.668 §13; 1989 c.43 §28; 1995 c.383 §6]

803.545 Failure to display out-of-state plates; penalty. (1) A person commits the offense of failure to display plates on an out-of-state vehicle if the person operates a vehicle that is registered in any jurisdiction other than this state and the person does not display the registration plates assigned to and furnished for the vehicle by the registering jurisdiction:

(a) For the current registration period in that jurisdiction; and

(b) Substantially as provided under ORS 803.540 for vehicles that are registered by this state.

(2) This section does not allow the display of out-of-state registration plates on a vehicle when the vehicle is required to be registered in this state by ORS 803.325.

(3) The offense described in this section, failure to display plates on an out-of-state vehicle, is a Class C traffic violation. [1983 c.338 §262; 1985 c.16 §102; 1985 c.401 §8]

803.550 Illegal alteration or display of plates; exception; penalty. (1) A person commits the offense of illegal alteration or illegal display of a registration plate if the person knowingly does any of the following:

(a) Illegally alters a registration plate in a manner described in subsection (2) of this section.

(b) Causes a registration plate to be illegally displayed as described in subsection (3) of this section.

(c) Operates any vehicle that is displaying a registration plate that is illegally altered in a manner described in subsection (2) of this section or that is illegally displayed as described in subsection (3) of this section.

(d) Owns and causes or permits a vehicle to display a registration plate that is illegally altered in a manner described in subsection (2) of this section or that is illegally displayed as described in subsection (3) of this section.

(2) A registration plate is illegally altered for purposes of this section if the plate has been altered, modified, covered or obscured in any manner including, but not limited to, the following:

(a) Any change of the color, configuration, numbers, letters or material of the plate.

(b) Any material or covering, other than a frame or plate holder, placed on, over or in front of the plate that alters the appearance of the plate.

(c) Any frame or plate holder that obscures the numbers, letters or registration stickers, so as to render them unreadable.

(3) A registration plate is illegally displayed for purposes of this section if the plate:

(a) Is displayed on a vehicle other than the vehicle for which the plate was issued; or

(b) Displays registration stickers that contain an expiration date that is different from the expiration date shown upon the vehicle registration records of the Department of Transportation.

(4) Subsection (2) of this section does not apply to the following:

(a) Any placement of registration stickers described under ORS 803.555.

(b) Any public official who displays or performs any alteration of a registration plate in the course of official duties.

(c) Any special interest registration plate approved under ORS 805.210.

(5) Subsection (3)(a) of this section does not apply to a vehicle dealer authorized to use and operate vehicles displaying the dealer's plates under ORS 822.040.

(6) A person does not commit the offense of illegal alteration or illegal display of a registration plate if, at the time the conduct described in subsection (3)(b) of this section occurs, the person has proof of registration of the vehicle but has not yet received new registration stickers from the department. The proof of vehicle registration is valid 30 days from the date of issuance. The department shall adopt rules regarding what constitutes proof of vehicle registration under this subsection.

(7) The court shall dismiss any charge under this section if, prior to the court appearance date listed on the citation, the person charged delivers to the clerk of the court named on the citation proof of registration of the vehicle at the time of the violation.

(8) The offense described in this section, illegal alteration or illegal display of a registration plate, is a Class B traffic violation. [1985 c.243 §2; 2007 c.192 §1; 2015 c.154 §1]

803.552 Car rental company; issuance of plates; fees; rules. (1) As used in this section:

(a) "Car rental company" has the meaning given that term in ORS 803.219.

(b) "Integrator" has the meaning given that term in ORS 802.600.

(2) If the Department of Transportation receives an application for vehicle registration from a car rental company that was submitted to an integrator and the application does not include the primary ownership record for the motor vehicle, the department may issue registration plates for the vehicle if the conditions described in subsection (3) of this section are met.

(3) Before the department may issue registration plates under subsection (2) of this section, a car rental company must:

(a) Possess a valid Oregon vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040;

(b) Certify that the car rental company has not received the primary ownership record for the vehicle as of the date the application is submitted; and

(c) Meet any other requirements adopted by the department by rule.

(4) In addition to any fee for registration or issuance of registration plates, the department may charge a fee for providing the services authorized by this section. The department shall establish the amount of the fee by rule.

(5) The department shall adopt rules to carry out the provisions of this section. [2019 c.348 §2]

Note: 803.552 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

(Stickers)

803.555 Replacement. The owner of a registered vehicle to which registration stickers are assigned may replace a registration sticker that is lost, destroyed or mutilated in a manner that renders illegible any identification of the sticker. To replace a registration sticker under this section, the owner must apply to the Department of Transportation for a replacement of the damaged or lost sticker in a form prescribed by the department and pay the replacement sticker fee established under ORS 803.575. The application must state the facts of the damage, destruction or loss of the stickers. The stickers issued under this section are valid only for the period of the stickers replaced. Provision for replacement of registration plates is made under ORS 803.530. [1983 c.338 §267; 1985 c.16 §107; 1985 c.174 §6; 1989 c.76 §3; 1993 c.741 §122]

803.560 Improper display; exception; penalty. (1) A person commits the offense of improper display of validating stickers if the person owns or drives a vehicle on which the display of registration stickers provides proof of valid registration and:

(a) The stickers are not displayed in a manner required by the Department of Transportation; or

(b) The stickers are displayed on the vehicle after the registration period shown on the stickers.

(2) A person does not commit the offense of improper display of validating stickers if, at the time the conduct described in subsection (1) of this section occurs, the person has proof of registration of the vehicle but has not yet received new registration stickers from the department. The proof of vehicle registration is valid 30 days from the date of issuance. The department shall adopt rules regarding what constitutes proof of vehicle registration under this subsection.

(3) The court shall dismiss any charge under this section if, prior to the court appearance date listed on the citation, the person charged delivers to the clerk of the court named on the citation proof of registration of the vehicle at the time of the violation.

(4) The offense described in this section, improper display of validating stickers, is a Class D traffic violation. [1983 c.338 §268; 1993 c.751 §27; 2015 c.154 §2]

803.565 Removal of stickers upon sale of vehicle by dealer or towing business. (1) Except as provided in subsections (2) and (3) of this section, when a person who has a vehicle dealer certificate issued under ORS 822.020 or a towing business certificate issued under ORS 822.205 sells a motor vehicle that has valid Oregon registration plates, the person shall remove the registration stickers from the registration plates of the vehicle if the vehicle:

(a) Has a gross vehicle weight rating of 10,000 pounds or less;

(b) Is designed to carry passengers; and

(c) Is not a motorcycle, moped or snowmobile.

(2) A person who has a vehicle dealer certificate issued under ORS 822.020 need not remove registration stickers under subsection (1) of this section if:

(a) The person submits title and registration documents to the Department of Transportation on behalf of the buyer of the vehicle; or

(b) The person sells the vehicle to another person who has a vehicle dealer certificate issued under ORS 822.020.

(3) A person who has a towing business certificate issued under ORS 822.205 need not remove registration stickers under subsection (1) of this section if the person sells the vehicle to a person who has a vehicle dealer certificate issued under ORS 822.020 or to a person who has a dismantler certificate issued under ORS 822.110. [2003 c.600 §2; 2005 c.61 §1; 2005 c.654 §40; 2019 c.312 §32]

Note: 803.565 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

(Fees)

803.570 Plate manufacturing fee. Except as otherwise specifically provided by law, the Department of Transportation shall collect the fee described by this section each time the department issues a registration plate upon the registration of a vehicle or at other times when a registration plate is issued by the department. The following all apply to the fee established by this section:

(1) The fee shall be in addition to any other fee collected upon issuance of a registration plate.

(2) The fee for each registration plate issued and for each pair of plates issued shall be determined by the department and shall be established by the department by rule. The department shall establish fees for a single plate and for a pair of plates under this section by:

(a) Determining the cost of manufacturing a single plate or a pair of plates and rounding the cost to the next higher half-dollar; and

(b) Adding $10 for a single plate and $20 for a pair of plates. [1983 c.338 §269; 1985 c.16 §108; 2003 c.618 §48; 2009 c.865 §44]

803.575 Fees for cards, plates and stickers; issuance; replacement; transfer. (1) The fee for issuance of a duplicate or replacement registration card under ORS 803.510 is $5.

(2) The fee for issuance of a replacement or duplicate registration plate under ORS 803.530 is the fee established under ORS 803.570, together with a fee of $5 if the plate is issued at the time of renewal of registration or a fee of $10 if the plate is issued at any other time.

(3) The fee for transfer of registration plate under ORS 803.530 is $6.

(4) The fee for issuance of replacement registration stickers under ORS 803.555, is $10.

(5) The fee for issuance of both replacement or duplicate registration plates and replacement registration stickers, when issued at the same time, is the fee established under ORS 803.570, together with a fee of $5 if the plate and stickers are issued at the time of renewal of registration or a fee of $10 if the plate and stickers are issued at any other time.

(6) A fee paid under subsection (2), (4) or (5) of this section includes the cost of any duplicate or replacement registration card issued. [1983 c.338 §271; 1985 c.16 §110; 1985 c.174 §8; 1985 c.736 §2; 1987 c.750 §8; 1993 c.751 §95; 1999 c.1009 §1; 2001 c.668 §2; 2019 c.17 §4]

803.577 Fee for identification device for proportionally registered vehicle. Except as otherwise specifically provided by law, the Department of Transportation shall collect the fee described by this section each time the department issues an identification device for the proportional registration of a vehicle. The following apply to the fee established by this section:

(1) The fee shall be in addition to any other fee collected upon issuance of a registration plate.

(2) The fee for each device issued shall be determined by the department and shall be established by the department by rule.

(3) The department shall establish the fees under this section based on cost. [1991 c.284 §26]

803.580 [1983 c.338 §220; repealed by 1987 c.750 §12]

803.585 Registration fees in lieu of certain other taxes and licenses; exemptions. (1) Except as otherwise provided in this section or ORS 801.041 or 801.042, the registration fees under the vehicle code are in lieu of all other taxes and licenses, except municipal license fees under regulatory ordinances, imposed on vehicles, the owners of such vehicles or the use of or any privilege related to such vehicles. Fixed load vehicles are not exempt from ad valorem taxation by this section.

(2) Travel trailers subject to registration and titling under the vehicle code are not subject to ad valorem taxation, but may be reclassified as manufactured structures and made subject to taxation as provided in ORS 308.880.

(3) This section does not apply to the privilege tax imposed under ORS 320.405 or the use tax imposed under ORS 320.410. [1983 c.338 §221; 1989 c.864 §8; 1991 c.459 §438h; 2003 c.655 §115; 2017 c.750 §117]

803.590 [1983 c.338 §219; 1985 c.253 §2; 1987 c.750 §9; 1989 c.43 §29; 1989 c.103 §1; 1989 c.723 §12; 1993 c.751 §96; 2003 c.655 §116; 2005 c.770 §4; repealed by 2019 c.17 §6]

(Diesel Engines)

803.591 Requirements for vehicles with diesel engines; exceptions; rules. (1) As used in this section and ORS 803.593:

(a) "Diesel engine" has the meaning given that term in ORS 468A.795.

(b) "Heavy-duty truck" has the meaning given that term in ORS 468A.795.

(c) "Medium-duty truck" has the meaning given that term in ORS 468A.795.

(d) "Public body" has the meaning given that term in ORS 174.109.

(2) On and after January 1, 2025, the Department of Transportation may not issue a certificate of title for the following motor vehicles if the address of the owner of the motor vehicle is located within Multnomah, Clackamas or Washington County:

(a) A medium-duty truck powered by a model year 2009 or older diesel engine.

(b) A heavy-duty truck powered by a model year 2006 or older diesel engine.

(3) The department may not issue registration or renewal of registration on and after the following dates for the following motor vehicles if the address of the owner of the motor vehicle is located within Multnomah, Clackamas or Washington County:

(a) January 1, 2023, for a medium-duty truck or a heavy-duty truck if the motor vehicle is powered by a model year 1996 or older diesel engine.

(b) January 1, 2029, for:

(A) A medium-duty truck powered by a model year 2009 or older diesel engine.

(B) A heavy-duty truck powered by a model year 2009 or older diesel engine owned by a public body.

(C) A heavy-duty truck powered by a model year 2006 or older diesel engine owned by a person other than a public body.

(4) Notwithstanding subsections (2) and (3) of this section, the department may issue

a certificate of title, issue registration or issue renewal of registration for a motor vehicle described in subsection (2) or (3) of this section after a date described in subsection (2) or (3) of this section if:

(a) The diesel engine that powers the motor vehicle has been retrofitted with approved retrofit technology pursuant to rules adopted by the Environmental Quality Commission under ORS 468A.810; and

(b) Proof of certification of the retrofit has been issued under ORS 468A.810.

(5) The following motor vehicles are exempt from the requirements of this section:

(a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

(b) Farm tractors.

(c) Implements of husbandry.

(d) Motor vehicles used exclusively as training vehicles.

(e) Publicly and privately owned emergency vehicles.

(f) Ambulances.

(g) Campers.

(h) Motor homes.

(i) Recreational vehicles.

(j) Heavy-duty trucks operated for 5,000 miles or fewer on highways of this state during one calendar year.

(k) Carriers with a fleet size of five or fewer heavy-duty trucks.

(L) Antique vehicles.

(m) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

(6)(a) In order for registration to continue to be valid for a motor vehicle that is owned by a public body and subject to subsection (3) of this section, the public body shall, in a manner determined by the department by rule, submit proof to the department that the motor vehicle complies with subsection (3) of this section. Proof of compliance must be on a form supplied by the department and must include such information as the department may require. Proof of compliance for a motor vehicle owned by a public body is valid until the ownership of the vehicle changes.

(b) The department shall provide notice to a public body of the requirement under this subsection to submit proof of compliance with subsection (3) of this section. The notice shall be issued to the public body no later than one year prior to the date that the proof of compliance must be submitted to the department.

(7) The department may adopt rules as necessary to administer this section. [2019 c.645 §4]

Note: 803.591 and 803.593 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

803.593 Annual report. (1) No later than September 15 of each year, the Department of Transportation shall submit a report in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to transportation and the environment on the registration of medium-duty trucks and heavy-duty trucks in this state. The purposes of the report shall be to identify and address trends in the registration of medium-duty trucks and heavy-duty trucks in this state over time and to identify any effects that the requirements of ORS 803.591 may have on the trends in registration.

(2) The report shall include information on:

(a) The number of medium-duty trucks and heavy-duty trucks registered in each county in this state; and

(b) The number of medium-duty trucks and heavy-duty trucks registered in this state that are motor vehicles described in ORS 803.591 (5). [2019 c.645 §5]

Note: See note under 803.591.

VEHICLE PERMITS

803.600 Trip permits; authority granted; types; records; rules; when not required. A trip permit grants authority to temporarily operate a vehicle on the highways of this state under circumstances where the operation would not otherwise be legal because the vehicle is not registered by this state or because provisions relating to the vehicle's registration do not allow the operation. The Department of Transportation shall provide for the issuance of trip permits in a manner consistent with this section. All of the following apply to permits issued under this section:

(1) The department shall issue the following types of trip permits to authorize the described type of operation and, except as provided in subsection (2) of this section, may not issue trip permits for any other purpose:

(a) A heavy motor vehicle trip permit may be issued for the following vehicles that are not registered in this state:

(A) Motor vehicles with a combined weight or loaded weight of more than 10,000 pounds;

(B) Truck tractors that are more than 8,000 pounds; or

(C) Fixed load motor vehicles.

(b) A permit described in paragraph (a) of this subsection is valid for 10 consecutive days.

(c) A heavy trailer trip permit may be issued for a trailer that will be operated on the highways at a loaded weight of more than 8,000 pounds or that is a fixed load vehicle, and that is not registered to allow operation of the vehicle in this state. A permit described in this paragraph is valid for 10 consecutive days. This paragraph does not apply to travel trailers.

(d) A light vehicle trip permit may be issued for a vehicle with a combined weight or loaded weight of less than 10,001 pounds that is not a fixed load vehicle and that is not registered to allow operation of the vehicle in this state. Permits described in this paragraph may be issued for a period of 21 consecutive days. The department may not issue more than two permits under this paragraph in a 12-month period for any one vehicle unless all registered owners of the vehicle are replaced by new owners. If there is a complete change in ownership of the vehicle, as shown by the registration records for the vehicle, a new owner may receive permits for the vehicle under this paragraph as if no permits had been issued for the vehicle. This paragraph does not apply to campers, travel trailers or motor homes, which are eligible for recreational vehicle trip permits under paragraph (e) of this subsection.

(e) A recreational vehicle trip permit may be issued for a period of up to 10 consecutive days for a camper, travel trailer or motor home that is not registered for operation in this state. A person buying a recreational vehicle trip permit must show proof satisfactory to the department that the person is the owner of the camper, travel trailer or motor home for which the permit will be granted. A person may not receive recreational vehicle trip permits authorizing more than 10 days of operation in any 12-month period. The department may determine by rule the method for ensuring a person has not exceeded the maximum number of days of operation allowed by the permit.

(f) A registration weight trip permit may be issued for a vehicle that is registered in this state, to allow the vehicle to be operated with a greater combined weight or loaded weight than is permitted by the registration weight established for the vehicle or at a greater combined weight or loaded weight than is otherwise permitted under the registration for the vehicle if the vehicle is not required to establish a registration weight. A permit issued under this paragraph does not authorize movements or operations for which a variance permit is required under ORS 818.200. A permit issued under this paragraph shall show the maximum registration weight allowed for operation under the permit. A permit issued under this paragraph is valid for 10 consecutive days.

(g) A registered vehicle trip permit may be issued for a vehicle that is registered in this state to allow the vehicle to operate under conditions or in ways not permitted by the terms of the vehicle registration. The department shall determine by rule the kinds of operation for which permits may be issued under this paragraph. A permit issued under this paragraph is valid for 10 consecutive days.

(2) The department shall allow a person issued a vehicle dealer certificate under ORS 822.020 or a towing business certificate under ORS 822.205 to issue a 10-day trip permit to a person who buys a motor vehicle from the person with the certificate if the registration stickers are removed in accordance with ORS 803.565. The following apply to trip permits issued under this subsection:

(a) A permit issued under this subsection allows operation of the motor vehicle in this state for the purpose of registering the vehicle.

(b) A permit issued under this subsection is valid for a period of 10 consecutive days.

(c) A person with a vehicle dealer certificate or a towing business certificate may not issue more than two permits under this subsection for the same motor vehicle.

(3) The following requirements for records are established concerning permits issued under this section:

(a) Any carrier regulated by the department shall maintain records of heavy motor vehicle and heavy trailer trip permits and registration weight trip permits issued to the carrier as required by the department by rule.

(b) Requirements for the department to maintain records concerning trip permits are established under ORS 802.200.

(4) An owner or operator of a vehicle may obtain a trip permit. The fees for issuance of trip permits are as provided under ORS 803.645.

(5) The department shall make the trip permits available to all field offices and agents maintained by the department and may make arrangements for the issuance of the permits by designated individuals, firms or associations for the convenience of the motoring public. This subsection does not require the department to make trip permits described in subsection (2) of this section available to anyone other than persons with

vehicle dealer certificates or towing business certificates.

(6) The department may also sell heavy motor vehicle, heavy trailer and registration weight trip permits in advance of issuance to contractors, transportation companies and other users for issuance to their own vehicles or vehicles under their control.

(7) The department shall adopt rules for the issuance, sale and control of trip permits.

(8) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted as follows:

(a) By vehicle dealers as permitted under ORS 822.040.

(b) By vehicle transporters as permitted under ORS 822.310.

(c) By towing businesses as permitted under ORS 822.210.

(9) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted under ORS 803.305.

(10) Unregistered vehicles that are operated without a trip permit are subject to the prohibitions and penalties for operation of unregistered vehicles under ORS 803.300 or 803.315, as appropriate.

(11) A trip permit may be issued to a school vehicle registered under ORS 805.050 for use of the vehicle for purposes not permitted under ORS 805.050. [1983 c.338 §272; 1985 c.16 §111; 1985 c.313 §4; 1985 c.547 §16; 1989 c.723 §13; 1991 c.284 §19; 1991 c.360 §4; 1991 c.407 §29; 1993 c.174 §9; 1995 c.733 §86; 1997 c.421 §1; 2001 c.412 §1; 2003 c.600 §3; 2003 c.655 §117; 2007 c.50 §3; 2019 c.312 §29]

803.601 Disposition of fees collected for certain permits. Fees collected by the Department of Transportation for recreational vehicle trip permits described in ORS 803.600 shall be transferred to the State Parks and Recreation Department Fund established by ORS 390.134 and are continuously appropriated to the State Parks and Recreation Department for the purposes specified in ORS 390.134. [1997 c.421 §3; 2003 c.14 §463]

Note: 803.601 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

803.602 Proof of insurance coverage for certain trip permits. An applicant for a light vehicle trip permit, a recreational vehicle trip permit for a motor vehicle or a trip permit issued under ORS 803.600 (2) must submit, at the time of application, proof indicating that the vehicle that will be operated under the permit is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered by the policy for as long as the permit is valid. The proof must include the name of the insurer and the policy number. The Department of Transportation or, if the permit is issued under ORS 803.600 (2), the person with the vehicle dealer certificate or towing business certificate shall refuse to issue a permit to a person who does not present the proof required by this section. [1991 c.360 §2; 1993 c.751 §28; 2001 c.412 §2; 2003 c.600 §5; 2019 c.312 §30]

Note: 803.602 was added to and made a part of ORS chapter 803 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

803.605 Erroneous issuance of trip permit; refund of fee. When the Department of Transportation determines that it has erroneously issued a trip permit to a person who did not require the permit, the department may refund to the person any fee the person paid for the permit. [1985 c.313 §6]

Note: 803.605 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

803.610 Reciprocity permits. A reciprocity permit is a vehicle permit that may be issued to identify vehicles operating under a reciprocal agreement established under ORS 802.500. When required by an agreement, the Department of Transportation shall provide for the issuance of reciprocity permits as authorized by the agreement. All of the following apply to the issuance of permits under this section:

(1) The issuance of permits shall comply with the agreement authorizing their issuance.

(2) Permits may be used to identify vehicles entitled to operate within the areas described in an agreement. [1983 c.338 §273; 1985 c.668 §16]

803.615 Temporary permit for registration applicant. The Department of Transportation may issue a temporary permit in a form determined by the department to an applicant for registration to permit the applicant to operate the vehicle while the department is determining all facts relative to the right of the applicant to receive title, regular registration plates and regular registration. [1983 c.338 §276; 1985 c.16 §112; 1985 c.401 §10; 1987 c.146 §9; 1993 c.233 §52]

803.620 [1983 c.338 §277; 1989 c.109 §2; repealed by 1989 c.43 §37]

803.625 Temporary registration permits issued by dealers; rules. (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020 may issue temporary permits for the operation of vehicles or the transporting of a camper pending the receipt of permanent registration from the department.

(2) Forms for temporary permits issued under this section shall be furnished and, subject to ORS 803.640, prescribed by the department.

(3) The department shall specify, by rule, the procedures to be followed by persons issuing and using temporary permits issued under this section. Persons violating rules established by the department under this subsection are subject to penalty under ORS 803.630 and 803.635. [1983 c.338 §278; 1985 c.284 §3; 1997 c.583 §8; 2001 c.827 §4]

803.630 Agent violation of temporary registration permit procedures; penalty. (1) A person commits the offense of agent violation of temporary registration permit procedures if the person is authorized to issue temporary registration permits under ORS 803.625 and the person violates any rules adopted by the Department of Transportation concerning the procedures for issuing the permits.

(2) The offense described in this section, agent violation of temporary registration permit procedures, is a Class B traffic violation. [1983 c.338 §279]

803.635 Improper use of temporary registration permit; penalty. (1) A person commits the offense of improper use of temporary registration permit if the person is issued a temporary registration permit under ORS 803.625 and the person does any of the following:

(a) Violates any rule adopted by the Department of Transportation under ORS 803.625 concerning the use of the permit.

(b) Fails to keep the permit on and upon the vehicle during the period until the receipt of the permanent registration plates.

(c) Fails to remove the permit from the vehicle upon receipt of permanent registration plates.

(2) The offense described in this section, improper use of temporary registration permit, is a Class D traffic violation. [1983 c.338 §280; 1995 c.383 §7]

803.640 Prohibition on showing name or address on permit. (1) Vehicle permits issued under ORS 803.600 to 803.615 that are required to be displayed so as to be visible from the outside of a vehicle shall not show the name or address of the registered owner of the vehicle or of the person who has applied for registration or titling of the vehicle.

(2) The Department of Transportation may require that permits described in this section contain the driver license number of the registered owner or of the person who has applied for registration or titling of the vehicle displaying the permit and the name of the state that issued the driver license.

(3) If the department determines that the information authorized by subsection (2) of this section is not sufficient to identify the registered owner or person who has applied for registration or titling of a vehicle issued a permit described in this section, the department may require that the person operating the vehicle have in the person's possession any information the department determines is necessary for identification. Such information, if required, shall be on a form prescribed by rule by the department and may not be required to be displayed so as to be visible from outside the vehicle. [1985 c.284 §2; 1993 c.751 §97]

803.645 Fees for trip permits. (1) For the period beginning on January 1, 2018, and ending on December 31, 2019, fees for trip permits issued under ORS 803.600 are as follows:

(a) For a heavy motor vehicle trip permit, $43.

(b) For a heavy trailer trip permit, $10.

(c) For a light vehicle trip permit, $32.

(d) For a recreational vehicle trip permit, $32.

(e) For a registration weight trip permit, $5.

(f) For a registered vehicle trip permit, $7.50.

(g) For a 10-day trip permit issued under ORS 803.600 (2) by a person with a vehicle dealer certificate or a towing business certificate, $15.

(2) For the period beginning on January 1, 2020, and ending on December 31, 2021, fees for trip permits issued under ORS 803.600 are as follows:

(a) For a heavy motor vehicle trip permit, $43.

(b) For a heavy trailer trip permit, $10.

(c) For a light vehicle trip permit, $33.

(d) For a recreational vehicle trip permit, $33.

(e) For a registration weight trip permit, $5.

(f) For a registered vehicle trip permit, $7.50.

(g) For a 10-day trip permit issued under ORS 803.600 (2) by a person with a vehicle dealer certificate or a towing business certificate, $15.

(3) For the period beginning on January 1, 2022, and ending on December 31, 2023, fees for trip permits issued under ORS 803.600 are as follows:

(a) For a heavy motor vehicle trip permit, $43.

(b) For a heavy trailer trip permit, $10.

(c) For a light vehicle trip permit, $34.

(d) For a recreational vehicle trip permit, $34.

(e) For a registration weight trip permit, $5.

(f) For a registered vehicle trip permit, $7.50.

(g) For a 10-day trip permit issued under ORS 803.600 (2) by a person with a vehicle dealer certificate or a towing business certificate, $15. [1983 c.338 §281; 1985 c.16 §113; 1985 c.313 §5; 1985 c.400 §4; 1989 c.43 §30; 1989 c.109 §3; 1989 c.723 §14; 1991 c.284 §20; 1991 c.360 §3; 1997 c.421 §2; 2001 c.412 §3; 2003 c.600 §4; 2003 c.655 §118; 2009 c.865 §44a; 2017 c.750 §48]

Note: The amendments to 803.645 by section 49, chapter 750, Oregon Laws 2017, become operative January 1, 2024, and apply to fees imposed on or after January 1, 2024. See section 50, chapter 750, Oregon Laws 2017, and section 139, chapter 750, Oregon Laws 2017, as amended by section 31, chapter 93, Oregon Laws 2018. The text that is operative on and after January 1, 2024, is set forth for the user's convenience.

803.645. Fees for trip permits issued under ORS 803.600 are as follows:

(1) For a heavy motor vehicle trip permit, $43.

(2) For a heavy trailer trip permit, $10.

(3) For a light vehicle trip permit, $35.

(4) For a recreational vehicle trip permit, $35.

(5) For a registration weight trip permit, $5.

(6) For a registered vehicle trip permit, $7.50.

(7) For a 10-day trip permit issued under ORS 803.600 (2) by a person with a vehicle dealer certificate or a towing business certificate, $15.

803.650 Placement of permits in vehicles; rules. (1) A permit issued under ORS 803.600, 803.615 or 803.625 shall be placed on the left side of the rear window of the vehicle unless:

(a) The vehicle has no rear window; or

(b) The design of the vehicle or of any equipment lawfully added to the vehicle is such that a permit placed as required by this section could not easily be seen from outside the vehicle.

(2) The Department of Transportation shall adopt rules for the placement of permits that cannot be placed on the left side of the rear window of a vehicle. [1987 c.166 §2]

803.655 Improper display of permit; penalty. (1) A person commits the offense of improper display of a permit if the person is issued a permit under ORS 803.600, 803.615 or 803.625, and the person does not display the permit on the vehicle in the manner required by ORS 803.650 or as required by the Department of Transportation by rule.

(2) The offense described in this section, improper display of a permit, is a Class D traffic violation. [1987 c.166 §4; 1995 c.383 §8]

803.660 Color and size of permits. The color and size of the print on permits issued under ORS 803.600, 803.615 and 803.625 shall be such that the permits can easily be read. [1987 c.166 §3; 1999 c.359 §5; 2003 c.655 §119]

803.665 Towing commercial fishing boat without permit. Notwithstanding ORS 803.600, a person may tow the person's own commercial fishing boat without a trip permit and regardless of the weight permitted under the registration of the trailer if the combined weight of the towing vehicle, the trailer and the boat is 15,000 pounds or less. [1989 c.992 §12b]

CHAPTER 804

[Reserved for expansion]

Chapter 805

2019 EDITION

Special Registration Provisions

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805.010 Antique vehicles. (1) A vehicle that is an antique vehicle may be registered for a permanent registration period as described under ORS 803.400 by doing the following:

(a) Making application for permanent registration of the vehicle in the manner provided for application for registration of vehicles.

(b) Paying the fee for permanent registration of antique vehicles under ORS 803.420.

(2) Once a vehicle is permanently registered as an antique vehicle under this section, the vehicle is subject to the limitations on use of the vehicle under ORS 805.030. [1983 c.338 §238; 2003 c.122 §3]

805.020 Special interest vehicles. (1) A vehicle that is a vehicle of special interest may be registered for a permanent registration period as described under ORS 803.400 by doing the following:

(a) Making application for permanent registration of the vehicle in the manner provided for application for registration of vehicles.

(b) Paying the fee for permanent registration of vehicles of special interest established under ORS 803.420.

(2) Once a vehicle is permanently registered as a vehicle of special interest under this section, the vehicle is subject to the limitations on use of the vehicle under ORS 805.030. [1983 c.338 §239; 2003 c.122 §4]

805.030 Violation of registration limits on antique or special interest vehicle; penalty. (1) A person commits the offense of violation of registration limits on antique vehicle or vehicle of special interest if a vehicle is permanently registered under ORS 805.010 or 805.020 and the person uses the vehicle:

(a) Other than for exhibitions, parades, club activities and similar uses; or

(b) Primarily for the transportation of persons or property.

(2) The offense described in this section, violation of registration limits on antique vehicle or vehicle of special interest, is a Class D traffic violation. [1983 c.338 §240]

805.035 Racing activity vehicles. (1) A vehicle that is a racing activity vehicle may be registered only under this section.

(2) A racing activity vehicle shall be registered for a permanent registration period as described under ORS 803.400. To register a racing activity vehicle the owner shall:

(a) Apply for permanent registration of the vehicle in the same manner provided for application for registration of vehicles; and

(b) Pay the fee for permanent registration of racing activity vehicles established under ORS 803.420.

(3) A racing activity vehicle may be issued special interest registration plates.

(4) Once a vehicle is permanently registered as a racing activity vehicle under this section, the vehicle is subject to the limitations on use of the vehicle under ORS 805.037. [2007 c.693 §3a]

805.037 Violation of registration limits on racing activity vehicles; penalty. (1) A person commits the offense of violation of registration limits on a racing activity vehicle if a vehicle is permanently registered under ORS 805.035 and the person uses the vehicle other than for:

(a) Exhibitions, parades or club activities;

(b) Driving the vehicle from the person's home to a race track that is within a 90-mile radius of the person's home; or

(c) Test driving the vehicle for maintenance or repair purposes within a 30-mile radius of where the vehicle is maintained or repaired.

(2) The offense described in this section, violation of registration limits on a racing activity vehicle, is a Class B traffic violation. [2007 c.693 §3b]

805.040 Registration of government-owned vehicles. Except as otherwise provided by this section, ORS 805.045 and 805.060, vehicles that are owned and operated by this state, cities, counties or other political subdivisions of this state or by the government of a federally recognized Indian tribe in this state are subject to the same requirements and provisions for registration as are other vehicles. For purposes of this section, a vehicle that is operated under a lease or lease-purchase agreement by any of the governments specified in this section is a government-owned vehicle. The following requirements and provisions apply to government-owned vehicles:

(1) The registration period for vehicles subject to this section shall be an ownership registration period as described under ORS 803.400 except that the registration shall continue to be valid if ownership of the vehicle is transferred to another government agency.

(2) The fee for registration of the vehicles shall be the fee for registration of government-owned vehicles established under ORS 803.420, and no other registration fee shall be required.

(3) Any vehicle registered under this section and not exempted under ORS 815.300 must meet the requirements for certification of compliance with pollution control under ORS 815.310.

(4) Vehicles described in this section that are school buses or activity vehicles may be registered as provided in ORS 805.050 in lieu of registration under this section, if the vehicles qualify for registration under ORS 805.050.

(5) For purposes of this section, vehicles owned by the government of a federally recognized Indian tribe in this state are government-owned vehicles. [1983 c.338 §243; 1985 c.16 §91; 1985 c.148 §1; 1985 c.547 §14; 1987 c.440 §5; 1993 c.741 §123]

805.045 Registration for certain state-owned vehicles. (1) If approval is granted under ORS 283.390, the Department of Transportation may issue:

(a) Registration plates or other evidence of registration from any regular series rather than from any specially designed government series for a vehicle owned or operated by any state department or institution; or

(b) Wine country registration plates for a vehicle operated by a member of the Oregon Wine Board in discharging the board's duties if requested to do so by the board.

(2) The registration period for a vehicle described under this section shall be the same as the regular registration period for the type of vehicle registered.

(3)(a) The fee for registration or renewal of a regular series registration plate for a vehicle under subsection (1)(a) of this section is the fee established under ORS 803.420 for registration or renewal of a state-owned vehicle registered under this section.

(b) The fee for registration or renewal of a wine country registration plate for a vehicle under subsection (1)(b) of this section is the fee established under ORS 803.420 for that type of vehicle, and not for renewal of a state-owned vehicle registered under this section. Additionally, the applicant shall pay the surcharge described under ORS 805.266.

(4) Any vehicle registered under this section and not exempted under ORS 815.300 must meet the requirements for certification of compliance with pollution control under ORS 815.310. [1987 c.440 §2; 1993 c.741 §124; 2016 c.124 §2; 2018 c.93 §3]

805.047 Regular registration for county-owned vehicles. (1) Upon request of any county, the Department of Transportation may issue registration plates or other evidence of registration from any regular series rather than from any specially designed government series for a vehicle owned or operated by the county. The registration period for a vehicle described under this section shall be the same as the regular registration period for the type of vehicle registered. The fee for registration or renewal of registration of a vehicle under this section shall be the fee established under ORS 803.420 (6)(a).

(2) Any vehicle registered under this section and not exempted under ORS 815.300 must meet the requirements for certification of compliance with pollution control under ORS 815.310. [2015 c.540 §2; 2017 c.750 §39g]

805.050 School buses and school activity vehicles; exceptions. (1) The Department of Transportation shall provide for registration of vehicles that qualify under this section in a manner that is consistent with this section. A vehicle qualifies for registration under this section if the vehicle meets the following qualifications and is not a vehicle that is described under subsection (2) of this section:

(a) The vehicle must be a motor vehicle.

(b) Except as provided under ORS 803.600, the vehicle must be used exclusively in transporting students to or from any school or authorized school activity or function, including extracurricular activities, and to or from points designated by a school.

(c) The vehicle must meet the requirements for school buses under ORS 820.100 to 820.120, or activity vehicles under ORS 820.110 and 820.120.

(d) The vehicle may be owned, operated or leased by the state, a city or county or any other political subdivision or otherwise provided to such government body for purposes described in this subsection or may be privately or otherwise owned and leased by or provided to a school for purposes described in this subsection.

(2) The following vehicles may not be registered under this section:

(a) A vehicle subject to regulation under ORS chapter 825.

(b) A vehicle regulated by a city under ORS 221.420.

(3) Except as otherwise provided by this section, vehicles registered under this section are subject to the same requirements and provisions for registration as are other vehicles. The following requirements and provisions are different from those otherwise provided for registration:

(a) The registration period for vehicles subject to this section shall be an ownership registration period as described under ORS 803.400, except that the registration continues valid if the ownership of the vehicle is transferred to another who continues to use

the vehicle for purposes allowed under the registration.

(b) The fee for registration of the vehicles shall be the fee for registration of school vehicles established under ORS 803.420, and no other registration fee shall be required.

(c) Any vehicle registered under this section and not exempted under ORS 815.300 shall meet the requirements for certification of compliance with pollution control under ORS 815.310.

(4) The department shall suspend or revoke registration under this section if the department determines that:

(a) A vehicle registered under this section is being used for purposes other than those required for qualification for registration under this section, and a trip permit as provided under ORS 803.600 has not been obtained.

(b) The vehicle does not comply with requirements under ORS 820.100 to 820.120. [1985 c.547 §11; 1987 c.158 §164; 1993 c.741 §125]

805.060 Law enforcement undercover vehicles. (1) The Department of Transportation may issue registration plates or other evidence of registration from any regular series rather than from any specially designed government series for a vehicle operated by a federal, state, county, city or Indian tribal law enforcement, parole or probation agency in discharging its undercover criminal investigation duties if requested to do so by the agency. The registration period for a vehicle described under this section shall be the same as the regular registration period for the type of vehicle registered. The fee for registration or renewal of registration of a vehicle under this section shall be the fee established for registration or renewal of police undercover vehicles under ORS 803.420.

(2) Any vehicle registered under this section and not exempt from the requirements to comply with certificates of compliance for pollution control equipment by ORS 815.300, must be certified as complying with the requirements for pollution control equipment under ORS 815.310. [1983 c.338 §244; 1985 c.148 §2; 1987 c.6 §1; 1993 c.741 §126; 2001 c.827 §5]

805.070 [1983 c.338 §246; repealed by 1987 c.25 §6]

805.080 Campers. Except where specific provisions are made for campers, campers are subject to the same provisions of the vehicle code relating to registration, titling, transfer, sale and dealer regulation as any other vehicle. [1983 c.338 §250]

805.090 Nonfarm tractors. (1) Except where specific provisions are made for tractors described in this section, such tractors are subject to the same provisions of the vehicle code relating to registration, titling, transfer, sale and dealer regulation as a motor truck.

(2) This section applies to vehicles that would be farm tractors if used primarily in agricultural operations and that are not within:

(a) The exemptions from registration for farm tractors under ORS 803.305; or

(b) The classification of fixed load vehicle. [1983 c.338 §251; 1985 c.16 §96]

805.092 Low-speed vehicles and medium-speed electric vehicles; rules. (1) The Department of Transportation shall adopt, by rule, minimum safety standards for low-speed vehicles and medium-speed electric vehicles.

(2) The department may not issue registration to a low-speed vehicle or medium-speed electric vehicle if the department has reason to believe the vehicle does not meet the safety standards adopted pursuant to this section. [2009 c.865 §14; 2010 c.30 §6]

PARTICULAR PERSONS

805.100 Disabled veterans. (1) In the absence of just cause for refusal, the Department of Transportation shall provide for registration of any vehicle required to be registered by this state in a manner consistent with this section for persons who qualify as disabled veterans under this section. The special registration provisions under this section are subject to all of the following:

(a) The fee is the one-time registration fee established by ORS 803.420 for vehicles registered under this section.

(b) The department may issue registrations for vehicles in a household under this section in a number equal to the number of persons in the household who qualify as disabled veterans under subsection (2) of this section.

(c) The department shall not register any commercial vehicle under this section.

(2) A person is a disabled veteran who qualifies for registration of a vehicle under this section if the person:

(a) Is a disabled veteran whose disability results from causes connected with service in the Armed Forces of the United States; and

(b) Has been a member of and discharged or released under honorable conditions from the Armed Forces of the United States, and whose service was for not less than 90 consecutive days or who was discharged or released on account of a service-connected injury or illness prior to the completion of the minimum period of service.

(3) A person qualifies as a disabled veteran under subsection (2) of this section if the person presents a letter from the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States certifying that the person is a disabled veteran.

(4) Registration issued under this section is valid as provided in ORS 803.415. The registration period for vehicles registered under this section exempts the registration from any requirement to be renewed or to make payment of renewal fees. However, if any owner would be required to comply with ORS 815.310 upon issuance or renewal of regular registration for the vehicle, the owner must comply with ORS 815.310 in the same manner as for other vehicles or the department may suspend the registration of the vehicle until the owner submits proof of compliance.

(5) The department may suspend or revoke any registration issued under this section if the department determines that the vehicle is owned by a person not qualified for registration under this section or the vehicle is a kind not qualified for registration under this section. [1983 c.338 §247; 1985 c.16 §92; 1993 c.741 §127; 1997 c.517 §1; 1999 c.778 §1]

805.103 Congressional Medal of Honor recipients; rules. (1) The Department of Transportation shall provide for issuance of registration plates for a motor vehicle registered under ORS 803.420 (6)(a), in a manner consistent with this section, to motor vehicle owners who qualify for the plates as Congressional Medal of Honor recipients under subsection (2) this section.

(2) A person who is a Congressional Medal of Honor recipient qualifies for registration plates under this section if the person provides the department with a certificate from the United States Department of Veterans Affairs attesting to the person's status as a Congressional Medal of Honor recipient.

(3) Registration plates issued under this section shall be considered customized registration plates for purposes of the fee required in ORS 805.250. The department may waive the fee required in ORS 805.250.

(4) The department may not issue registration plates for a motor vehicle under this section if another motor vehicle owned by the applicant has been issued registration plates under this section.

(5) The registration plates issued under this section shall:

(a) Be issued with a unique background design determined by the department;

(b) Be issued with a specific configuration as determined by the department;

(c) Contain the words "Medal of Honor";

(d) Contain the image of the Congressional Medal of Honor; and

(e) Meet the requirements for registration plates under ORS 803.535.

(6) If there is a transfer of interest in the motor vehicle to which the registration plate under this section is assigned, or if the motor vehicle is totaled and not reconstructed, the motor vehicle owner shall remove the registration plate. The Congressional Medal of Honor recipient may retain the registration plate, but the registration plate may not be placed on any other motor vehicle unless the registration plate is transferred as set forth in subsection (7) of this section.

(7) If the motor vehicle owner qualifies for the registration plates under subsection (2) of this section, the department may transfer registration plates issued under this section to another motor vehicle registered under ORS 803.420 (6)(a), as set forth in ORS 805.242.

(8) The department shall cancel any registration plates issued under this section if the department determines that the motor vehicle is owned by a person who does not qualify for the registration plates under subsection (2) of this section or that the motor vehicle is not registered under ORS 803.420 (6)(a).

(9) The department may adopt rules necessary to carry out the provisions of this section. [2007 c.311 §2; 2010 c.61 §4; 2017 c.750 §39h]

805.105 Veterans' recognition plates; Gold Star Family plates; rules; surcharge; disposition of moneys. (1) The Department of Transportation shall establish a veterans' recognition registration plate program to issue registration plates called "veterans' recognition registration plates" upon request to an owner of any motor vehicle registered under ORS 803.420 (6)(a) if the owner of the motor vehicle qualifies for the plates. Rules adopted under this section shall include, but need not be limited to, rules that:

(a) Describe general qualifications to be met by any veterans' group in order to be eligible for a veterans' recognition registration plate issued under this section.

(b) Specify circumstances under which the department may cease to issue veterans' recognition registration plates.

(c) Specify what constitutes proof of veteran status for issuance of a veterans' recognition registration plate, if such proof is required by a veterans' group or by the Director of Veterans' Affairs.

(d) Specify what constitutes proof that a person is a surviving family member of a person who was killed in action during an

armed conflict while serving in the Armed Forces of the United States. The department may only issue a veterans' recognition registration plate displaying a gold star decal and the words "Gold Star Family" to a person who is a parent, sibling, spouse or dependent of a person who was killed in action during an armed conflict while serving in the Armed Forces of the United States.

(2)(a) In addition to any other fee authorized by law, upon issuance of a veterans' recognition registration plate under this section and upon renewal of registration for a vehicle that has plates issued under this section, the department shall collect a surcharge of $2.50 per plate for each year of the registration period for the vehicle as described under ORS 803.415.

(b) Except as otherwise provided in paragraph (c) of this subsection, net proceeds of the surcharge collected by the department for the veterans' recognition registration plate shall be deposited in the trust fund established under ORS 406.050 for paying the expenses of operating the Oregon Veterans' Homes identified in ORS 408.362.

(c) If the department issues a veterans' recognition registration plate that names, describes or represents a veterans' group, that veterans' group may designate an account into which the net proceeds of the surcharge collected by the department under this section are to be deposited. The department shall keep accurate records of the number of plates issued under this paragraph for each veterans' group and, after payment of administrative expenses of the department, shall deposit moneys collected under this subsection into the specified account.

(d) Deposits under this subsection shall be made quarterly.

(3)(a) In consultation with the Department of Transportation, the Director of Veterans' Affairs shall design the veterans' recognition registration plate.

(b) If the department issues a veterans' recognition registration plate to recognize a veterans' group, the department shall, in consultation with the requesting veterans' group, add words or a military-related decal to the veterans' recognition registration plate that names, describes or represents the veterans' group.

(c) The department shall add a gold star decal and the words "Gold Star Family" to a veterans' recognition registration plate background to recognize surviving family members of persons killed in action during an armed conflict while serving in the Armed Forces of the United States.

(d) Except as otherwise required by the design, veterans' recognition registration plates must comply with the requirements of ORS 803.535.

(4) The department shall determine how many sets of veterans' recognition registration plates will be manufactured. If the department does not sell or issue renewal for 500 sets of veterans' recognition registration plates in any one year, the department shall cease production of veterans' recognition registration plates. For the purposes of this section, veterans' recognition registration plates that name, describe or represent a veterans' group are included in the total number of veterans' recognition registration plates issued.

(5) For the purposes of this section, "sibling" includes siblings of the whole or half blood and siblings by adoption, marriage or domestic partnership. [2007 c.564 §2; 2015 c.183 §1; 2017 c.750 §39i; 2019 c.224 §9]

805.106 Funding for veterans' recognition plate costs. (1) The Director of Veterans' Affairs shall pay to the Department of Transportation all of the department's anticipated costs of issuance of the veterans' recognition registration plate from grants, donations and gifts accepted by the Department of Veterans' Affairs under ORS 406.050 that may be expended for the purpose of issuance of a veterans' recognition registration plate.

(2) If a veterans' group requests issuance of a veterans' recognition registration plate under ORS 805.105, the group shall pay to the department all of the department's anticipated costs of issuing a veterans' recognition registration plate that names, describes or represents the group. The department may not begin creating or issuing the plates until the anticipated costs are paid. For purposes of this section, costs of issuing a veterans' recognition registration plate that names, describes or represents a veterans' group include, but are not limited to, computer programming costs and vendor set-up fees. [2007 c.564 §3; 2009 c.602 §6]

Note: 805.106 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

805.107 Disposition of certain plates issued to veterans. The surviving spouse of a veteran who was issued registration plates under ORS 805.105 may, upon the death of the veteran, continue to use the plates on a motor vehicle or may keep the plates as a memento. [Formerly 805.208]

805.110 Former prisoners of war. (1) In the absence of just cause for refusal, the Department of Transportation shall provide for registration of any motor vehicle required to be registered by this state in a manner

consistent with this section for persons who qualify as former prisoners of war under this section. The special registration provisions under this section are subject to all of the following:

(a) The fee is the one-time registration fee established under ORS 803.420 for vehicles registered under this section.

(b) The department may not register a motor vehicle under this section if another vehicle owned by the applicant or a member of the applicant's household has been registered under this section.

(c) The department may not register any commercial vehicle under this section or any motor vehicle with a loaded weight in excess of 10,000 pounds.

(2) A person is a former prisoner of war who qualifies for registration of a vehicle under this section if the person, while serving in the active military, naval or air service of the United States or any of its Allies, was forcibly detained or interned in line of duty:

(a) By an enemy government or its agents, or a hostile force, during a period of war; or

(b) By a foreign government or its agents, or a hostile force during a period other than a period of war in which such person was held under circumstances which the department finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(3) The surviving spouse of a former prisoner of war who was issued registration under this section may, upon the death of the former prisoner of war, continue to use the registration plates on a motor vehicle or may keep the plates as a memento.

(4) The department may suspend or revoke any registration issued under this section if the department determines that the vehicle is owned by a person not qualified for registration under this section or the vehicle is a kind not qualified for registration under this section. [1985 c.16 §94; 1987 c.750 §10; 1989 c.742 §1; 1993 c.741 §128; 2001 c.152 §3; 2005 c.770 §5; 2017 c.62 §1]

805.115 Active members of Oregon National Guard. (1) In the absence of just cause for refusal, the Department of Transportation shall provide for registration in a manner consistent with this section for persons who qualify under this section as active members of the Oregon National Guard. The special registration provisions under this section are subject to the following:

(a) The fee to register or renew registration under this section shall be the regular registration fee for the vehicle.

(b) Any motor vehicle registered under ORS 803.420 (6)(a) or (7)(c)(C) or (D) may be registered under this section.

(2) A person is eligible for registration under this section if the person is issued a certificate by the Oregon Military Department certifying that the person is an active member of the Oregon National Guard.

(3) The department may suspend, revoke or refuse to renew any registration issued under this section if the department determines that the vehicle is owned by a person not qualified for registration under this section or that the vehicle is not eligible for registration under this section.

(4) The Oregon Military Department shall notify the Department of Transportation within 30 days if a person issued a certificate described in subsection (2) of this section ceases to be an active member of the Oregon National Guard. [1991 c.383 §2; 1993 c.741 §129; 2001 c.293 §11; 2017 c.750 §39j]

805.117 Honorary consuls; rules. (1) As used in this section, "honorary consul" means a resident of Oregon who has been duly appointed by a foreign country as an honorary consular officer to the United States, pursuant to the Vienna Convention on Consular Relations.

(2) Upon application by an honorary consul who qualifies under this section, the Department of Transportation shall issue consular corps registration plates for use on the motor vehicle of the honorary consul. Registration plates issued under this section may be displayed on the vehicle of the honorary consul in lieu of regular registration plates issued under the vehicle code.

(3) The following apply to registration plates issued under this section:

(a) The plates shall be considered customized plates for purposes of the fee in ORS 805.250.

(b) The plates shall be assigned to a specific vehicle.

(c) The plates may not be transferable from vehicle to vehicle, except as provided by the department by rule.

(d) The plates shall be valid for the term in which the person is acting in the official capacity of honorary consul for a foreign consulate. If the term of honorary consul continues into a new registration period, the department may provide for validation of the plates for the subsequent term by means of a sticker or by any other means the department determines convenient.

(e) The person to whom the plates are issued may retain the plates after the official term of honorary consul is over, but the plates may not be valid if displayed on any

vehicle when the term of honorary consul has ended and the person is no longer appointed as an honorary consul.

(4) To qualify for consular corps registration plates, the person must provide the department with proof that the person is appointed by a government as an honorary consul and is acting in that capacity.

(5) The department shall adopt rules necessary to carry out the purposes of this section. [2009 c.621 §2]

FLEETS

805.120 Effect of fleet registration; requirements; rules. (1) The owner of a fleet of vehicles may register the vehicles under this section as a fleet in lieu of registering the vehicles individually.

(2) Except as otherwise provided under this section, vehicles registered in a fleet under this section are subject to the same taxes, fees, qualifications, provisions, conditions, prohibitions and penalties applicable to similar vehicles otherwise registered under the vehicle code.

(3) The following apply to fleets registered under this section:

(a) The registered owner of the fleet must maintain the number of vehicles registered in the fleet that the Department of Transportation determines by rule to be required for participation in the fleet registration program.

(b) Fleet registration or renewal of fleet registration under this section may be annual or biennial registration as determined by the department by rule.

(c) The registration of individual vehicles in a fleet registered under this section does not expire as long as the fleet registration is valid.

(d) The department shall assign identification to the fleet and, upon payment of appropriate fees, shall issue to the registered owner of the fleet permanent fleet tags, stickers, plates or other identification the department determines appropriate for the vehicles that the owner and the department have agreed to place in the fleet. The department may establish the use of any appropriate form of identification under this paragraph as the department determines convenient for its own operation.

(e) The tags, stickers, plates or other appropriate identification issued under this section shall be displayed on any vehicle to which it has been assigned by the department.

(f) Registration cards issued by the department for vehicles registered under this section are only required to individually describe the vehicles in the fleet to the extent the department determines necessary and to identify the fleet in which the vehicles are registered.

(g) Application for registration under this section shall be in the manner determined by the department by rule.

(h) The fleet owner shall maintain records and provide information to the department as required by the department by rule and shall allow the department to audit the records of the owner and conduct inspections at any reasonable time to determine compliance with requirements for fleet registration.

(i) Vehicles shall be added to the fleet and transferred from the fleet according to procedures established by the department by rule.

(j) The vehicles in the fleet shall be marked in compliance with any requirement for vehicle markings the department determines necessary for identification of fleet vehicles.

(k) The department may adjust fee payments and registration periods for individual vehicles added to a fleet registered under this section as the department determines necessary for administration of the fleet registration.

(L) The fees for a fleet registered under this section are the same as the fees required if the vehicles in the fleet are individually registered under the vehicle code.

(m) The department may charge a service charge for each vehicle entered into a fleet and a fleet vehicle renewal charge for each vehicle in the fleet at the time of renewal. Fees described in this paragraph are established under ORS 803.420.

(n) The department may schedule the time for payment of fleet registration fees in any manner convenient to the department or the fleet owner.

(o) The fleet owner shall comply with any rules the department establishes for the registration of vehicles in fleets under this section.

(p) The department shall cancel any registration under this section if the department determines that the owner of the vehicles registered is not complying with any requirements for fleet registration established under this section or by the department.

(q) A fleet owner may certify compliance with pollution control requirements under ORS 815.310 in the manner provided under ORS 815.310 for vehicles registered under this section.

(r) The department shall establish procedures for the reporting of odometer disclosures for the vehicles in the fleet on a

regular basis and for vehicles that are withdrawn from the fleet, if odometer disclosures are otherwise required. The reports shall provide any information the department determines by rule to be necessary. The department may establish any reporting time the department considers convenient, but shall attempt to establish periods with a frequency roughly equivalent to those for renewal of vehicle registration. The department shall retain the odometer information submitted under this section but need not print it on certificates of title or registration cards.

(4) A fleet owner may request that the registration of all vehicles in the fleet expire in the same month. Notwithstanding ORS 803.405 or any other provision of this section, if such a request is made the department shall:

(a) Adjust the registration expiration date of all vehicles in the fleet.

(b) When a vehicle that is already registered in this state is added to the fleet, adjust the registration expiration date of the vehicle to correspond to that of other vehicles in the fleet.

(c) When a vehicle that has never before been registered in this state is added to the fleet, assign a registration expiration date to the vehicle that corresponds to that of other vehicles in the fleet.

(5) When the department adjusts or assigns registration expiration dates in accordance with subsection (4) of this section, the department shall prorate all registration fees to reflect the adjustment or assignment.

(6) The department shall adopt rules necessary for the administration of this section. The rules may include any rules that increase the convenience of administration or the convenience of the registration process under this section. [1983 c.338 §249; 1985 c.16 §95; 1985 c.245 §1; 1985 c.251 §23; 1985 c.668 §8; 1991 c.459 §438i; 1991 c.873 §17]

805.130 [1983 c.338 §248; 1985 c.401 §7; repealed by 1993 c.174 §1]

805.140 [1983 c.338 §252; 1985 c.16 §97; 1985 c.668 §9; 1989 c.109 §4; 1989 c.171 §87; repealed by 1989 c.43 §37]

805.150 [1983 c.338 §253; 1985 c.16 §98; 1985 c.668 §10; 1989 c.109 §1; repealed by 1989 c.43 §37]

SPECIAL INDICIA OF REGISTRATION

(Generally)

805.200 Plates and other devices with special designs; rules. (1) The Department of Transportation by rule:

(a) Shall design plates, stickers, plate and sticker combinations or other devices or indicia that distinguish government-owned vehicles registered under the provisions of ORS 805.040 from other vehicles.

(b) May design plates, stickers, plate and sticker combinations or other devices or indicia for distinguishing vehicles registered under specific provisions of the Oregon Vehicle Code other than ORS 805.040, 805.105 or 805.205. Plates designed under this paragraph shall comply with the requirements of ORS 803.535. The fees for plates or indicia described in this paragraph are provided under ORS 805.250.

(2) Unless otherwise provided by statute or by rule of the department, indicia of registration that distinguish one kind of registration from another may not be transferred unless the new owner of the vehicle qualifies for that specific kind of registration.

(3) The department may adopt rules concerning the disposition of plates, stickers, devices or other indicia of registration upon transfer of ownership of the vehicle or when the owner or the vehicle is no longer eligible for the particular indicia. The department may cancel or revoke registration for failure to comply with rules adopted under this section. [1983 c.338 §263; 1985 c.16 §103; 1985 c.547 §15; 1985 c.668 §14; 1987 c.25 §4; 1989 c.43 §31; 1991 c.284 §21; 1991 c.383 §3; 1991 c.481 §3; 1993 c.741 §117; 2007 c.564 §5]

805.202 [2003 c.409 §2; 2007 c.564 §6; 2011 c.709 §7; repealed by 2015 c.806 §10]

805.205 Special plates for certain groups; rules; surcharge; disposition of moneys. (1) Except as provided in subsection (7) of this section, the Department of Transportation shall provide for issuance of registration plates described in this section for nonprofit groups meeting the qualifications for tax exempt status under section 501(c)(3) of the Internal Revenue Code and for institutions of higher education. Plates issued under this section may be issued to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a). Plates issued under this section may not contain expressions of political opinion or religious belief. Rules adopted under this section shall include, but need not be limited to, rules that:

(a) Specify circumstances under which the department may cease to issue plates for any particular group.

(b) Require each group for which plates are issued to file an annual statement on a form designed by the department showing that the group is a nonprofit group or is an institution of higher education and that the group or institution otherwise meets the qualifications imposed for eligibility for plates issued under this section. The statement shall include names and addresses of current directors or officers of the group or institution or of other persons authorized to

speak for the group or institution on matters affecting plates issued under this section.

(2)(a) Except as otherwise provided in paragraphs (b) and (c) of this subsection, in addition to any other fee authorized by law, upon issuance of a plate under this section and upon renewal of registration for a vehicle that has plates issued under this section, the department shall collect a surcharge for each year of the registration period. The surcharge shall be determined by the department by rule and may not be less than $2.50 per plate or more than $16 per plate. In setting the amount of the surcharge, the department shall consult with the nonprofit group for which the plates are issued.

(b) In addition to any other fee authorized by law, upon issuance of a plate under this section that recognizes an institution of higher education in this state, and upon renewal of registration for a vehicle that has such plates, the department shall collect a surcharge of $8 per plate for each year of the registration period.

(c) In addition to any other fee authorized by law, upon issuance of a Share the Road registration plate the department shall collect a surcharge of $5 per year of registration.

(3) Plates issued under this section shall be from the current regular issue of plates except that:

(a) If the group requesting the plates is an institution of higher education, the plates shall, upon request, contain words that indicate the plates are issued to recognize the institution or shall contain the institution's logo or an image of the institution's mascot; or

(b) If the group requesting the plates is a group that recognizes fallen public safety officers, the plates shall, upon request, contain a decal that indicates the plates are issued to recognize fallen public safety officers.

(4) Except as otherwise required by the design chosen, the plates shall comply with the requirements of ORS 803.535. The department shall determine how many sets of plates shall be manufactured for each group approved under this section. If the department does not sell or issue renewal for 500 sets of plates for a particular group in any one year, the department shall cease production of those plates.

(5) Except as otherwise provided in subsection (6) of this section, each group that is found by the department to be eligible for plates issued under this section may designate an account into which the net proceeds of the surcharge collected by the department under subsection (2) of this section are to be deposited. The department shall keep accurate records of the number of plates issued for each group that qualifies. After payment of administrative expenses of the department, moneys collected under this section for each group shall be deposited by the department into an account specified by that group. If any group does not specify an account for the moneys collected from the sale of plates issued under this section, the department shall deposit moneys collected for those plates into the Passenger Rail Transportation Account established under ORS 802.100 to be used as other moneys in the account are used. Deposits under this subsection shall be made at least quarterly.

(6)(a) Each institution of higher education that requests a plate under this section shall designate an account in the general fund of the institution, and the proceeds in the account shall be used for the purpose of academic enrichment at the institution.

(b) Net proceeds of the surcharge collected by the department for Share the Road registration plates shall be deposited into two accounts designated by The Street Trust Community Fund and Cycle Oregon. The department shall evenly distribute the net proceeds to each account. Deposits under this paragraph shall be made at least quarterly. At any time that the department determines that the accounts designated by The Street Trust Community Fund and Cycle Oregon cease to exist, the department may deposit the proceeds into the Passenger Rail Transportation Account established under ORS 802.100.

(c) Net proceeds of the surcharge collected by the department for Keep Kids Safe registration plates shall be deposited into an account designated by the Children's Trust Fund of Oregon Foundation to fund strategies and approaches shown to prevent or reduce child abuse. Deposits made under this paragraph shall be made at least quarterly. At any time that the department determines that the account designated by the Children's Trust Fund of Oregon Foundation ceases to exist, the department shall deposit the proceeds into the Keep Kids Safe Registration Plate Account established in ORS 805.207. At the beginning of each biennium, the Early Learning Council shall evenly distribute the moneys in the Keep Kids Safe Registration Plate Account to the counties in this state, until each county receives $1,000. After each county has received $1,000, the council shall distribute any remaining moneys to each county in an amount equal to the percentage of Keep Kids Safe registration plates sold in that county. Each county shall use the moneys received under this paragraph solely for the purpose of funding strategies and ap-

proaches shown to prevent or reduce child abuse.

(7) The department may not accept applications to create new group registration plates on or after August 12, 2015. [1993 c.741 §116; 1997 c.672 §1; 2001 c.102 §6; 2001 c.124 §4; 2003 c.409 §3; 2007 c.520 §1; 2007 c.564 §7; 2007 c.667 §3; 2009 c.621 §3; 2011 c.698 §1; 2012 c.37 §§68,68a; 2015 c.806 §15; 2017 c.750 §39k; 2018 c.93 §4]

805.206 [1997 c.672 §3; 2003 c.409 §4; 2007 c.564 §8; repealed by 2015 c.806 §14]

805.207 Keep Kids Safe Registration Plate Account. The Keep Kids Safe Registration Plate Account is established within the Early Learning Division Fund. All moneys received by the Early Learning Council from the sale of Keep Kids Safe registration plates shall be deposited into the account and are continuously appropriated to the council to be distributed to counties as provided in ORS 805.205. [2012 c.37 §68b; 2013 c.624 §23]

Note: 805.207 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

805.208 [2001 c.152 §2; 2007 c.564 §9; renumbered 805.107 in 2007]

805.210 Special interest vehicle plates. (1) The owner of a vehicle of special interest may apply to the Department of Transportation for permission to use special interest registration plates. To receive permission to use special interest registration plates the person must:

(a) Maintain the vehicle of special interest as a collectors' item and use the vehicle only for exhibitions, parades, club activities and similar uses but not use the vehicle primarily for the transportation of persons or property;

(b) Supply the special interest registration plates which the person desires to use; and

(c) Include the plates with the application for permission to use them.

(2) The department, prior to approval of an application under this section, shall determine that the special interest registration plates meet the following requirements:

(a) The plates shall be issued by the State of Oregon for use on vehicles in this state.

(b) The numbers and characters on the plate shall be distinctive.

(c) The plates shall be legible, durable and otherwise of a size, shape, color and design that will serve the purposes of safety and identification.

(d) If the plates are from a series of plates in current use, the plates shall be from the same year or period of issue in which the vehicle was manufactured.

(3) If the special interest registration plate offered for approval was issued in a year in which single registration plates only were required, the department shall grant permission for use of that registration plate alone if it is otherwise acceptable.

(4) If the special interest registration plates offered for approval are from a series of plates in current use, as described in subsection (2)(d) of this section, the department may affix a distinctive sticker to each plate at the time of approval. Stickers shall be of a size, color and design determined by the department and shall be displayed on plates in the manner determined by the department.

(5) The department may approve plates issued by the state that have been restored to their original color and design provided that if the plate was reflectorized when originally issued, it must be fully reflectorized when restored. [1983 c.338 §264; 1985 c.570 §1; 1991 c.896 §1; 1993 c.741 §130; 2003 c.122 §5]

805.220 Elected official plates; qualifications; fee; rules. (1) Upon application by an elected official who qualifies under this section, the Department of Transportation shall issue registration plates described under this section to the official for use on the motor vehicle of the person. Registration plates issued under this section may be displayed on the vehicle of the person in lieu of regular registration plates issued under the vehicle code.

(2) The following apply to registration plates issued under this section:

(a) The plates shall be considered customized plates for purposes of the fee in ORS 805.250.

(b) The plates shall be assigned to a specific vehicle.

(c) The plates shall be issued in addition to regular registration plates issued for a vehicle at the option of the applicant.

(d) The plates shall not be transferable from vehicle to vehicle except as provided by the department by rule.

(e) The plates shall be valid for the term of office of the qualifying official. If the person is elected to a subsequent term of office, the department may provide for validation of the plate for the subsequent term by means of a sticker or by any other means the department determines convenient.

(f) The person to whom the plates are issued may retain the plates after the person's term of office, but the plates shall not be valid if displayed on any vehicle while the person is not holding the office for which the plates were issued.

(3) Only the following elected officials qualify for issuance of registration plates under this section:

(a) The Secretary of State.

(b) The State Treasurer.

(c) Members of the Oregon Legislative Assembly.

(d) Members of the Oregon Congressional Delegation.

(4) Nothing in this section applies to or affects the authority of the department to issue distinctive registration plates on vehicles owned by this state that are provided for use of the Governor.

(5) The department shall adopt rules necessary to carry out the purposes of this section. [1985 c.16 §105; 1993 c.741 §131]

805.222 Special registration program; rules. (1) The Department of Transportation shall establish a special registration program and provide for issuance of special registration plates for nonprofit groups meeting the qualifications for tax exempt status under section 501(c)(3) of the Internal Revenue Code, for institutions of higher education and for public bodies, as defined in ORS 174.109.

(2) Plates issued under this section may be issued to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a). In addition, the department may adopt rules for issuance of special registration plates issued pursuant to this section for vehicles not registered under ORS 803.420 (6)(a).

(3) Plates issued under this section may not contain expressions of political opinion or religious belief.

(4) Rules adopted under this section shall include, but need not be limited to, rules that:

(a) Describe general qualifications to be met by any nonprofit group, institution of higher education or public body in order to be eligible for plates issued under this section.

(b) Specify circumstances under which the department may cease to issue plates under this section.

(c) Require each nonprofit group, institution of higher education or public body for which plates are issued to file an annual statement on a form designed by the department showing that the group is a nonprofit group, institution of higher education or public body and that the nonprofit group, institution of higher education or public body otherwise meets the qualifications imposed for eligibility for plates issued under this section. The statement shall include names and addresses of current directors or officers of the nonprofit group, institution of higher education or public body or of other persons authorized to speak for the nonprofit group, institution of higher education or public body on matters affecting plates issued under this section.

(d) Specify the manner in which a nonprofit group, institution of higher education or public body may apply for a special registration plate.

(5) In addition to any other fee authorized by law, for each set of special registration plates issued pursuant to this section, the department shall collect a surcharge of $40 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall distribute the moneys from the surcharge as provided in subsection (8) of this section.

(6) The department, in consultation with the nonprofit group, institution of higher education or public body requesting the special registration plate, shall develop a unique design for each plate issued under this section. Any design must comply with requirements described under ORS 803.535.

(7) The department shall determine how many sets of plates shall be manufactured for each plate approved under this section. If the department does not issue 2,000 sets of plates for a particular nonprofit group, institution of higher education or public body in any one year, the department shall cease production of those plates.

(8) Each nonprofit group, institution of higher education or public body that is found by the department to be eligible for plates issued under this section may designate an account into which the net proceeds of the surcharge collected by the department under subsection (5) of this section are to be deposited. The department shall keep accurate records of the number of plates issued for each nonprofit group, institution of higher education or public body that qualifies. After payment of administrative expenses of the department, moneys collected under this section for a nonprofit group, institution of higher education or public body shall be deposited by the department into an account specified by that nonprofit group, institution of higher education or public body. If any nonprofit group, institution of higher education or public body does not specify an account for the moneys collected from the sale of plates issued under this section, the department shall deposit moneys collected for those plates into the Passenger Rail Transportation Account established under ORS 802.100 to be used as other moneys in the account are used. Deposits under this sub-

section shall be made at least quarterly. [2015 c.806 §12; 2017 c.750 §39L]

805.225 Special registration plate; qualifications; application; fee; rules. (1) A nonprofit group, institution of higher education or public body, as defined in ORS 174.109, that requests issuance of a special registration plate under ORS 805.222 shall:

(a) Submit an application, in the manner prescribed by the Department of Transportation by rule.

(b) Pay to the department the anticipated costs of adding the plate to the special registration plate program, as determined by the department. The department shall refund any amount of the payment that is not needed to pay the costs of adding the plate to the program.

(c) Collect and hold prepaid vouchers for new special registration plates, until it has received at least 3,000 vouchers along with required fees. Once a participating nonprofit group, institution of higher education or public body has received at least 3,000 vouchers, it shall submit the vouchers, along with the required fees, to the department.

(2) The department shall begin designing, producing and issuing the plates after the nonprofit group, institution of higher education or public body submits the following:

(a) The application;

(b) Payment for the anticipated costs of adding the plate as determined under subsection (1) of this section; and

(c) Three thousand prepaid vouchers along with required fees.

(3) For purposes of this section, costs of adding a new special registration plate include, but are not limited to, computer programming costs and vendor set-up fees.

(4) The department shall adopt rules for the administration and implementation of the special registration plate program. [2015 c.806 §13]

805.230 Amateur radio operator plates; fee. (1) A motor vehicle owner who is a resident of this state and who holds a valid, unrevoked and unexpired official amateur radio station license issued by the Federal Communications Commission may obtain from the Department of Transportation special registration plates designed by the department for use on the vehicle in lieu of the regularly issued registration plates for the vehicle. To obtain special registration plates described under this section, a person must submit to the department the fee established under ORS 805.250 for issuance of the special registration plates.

(2) Upon the revocation or expiration of the radio license, the person must return the plates issued under this section to the department and receive in lieu thereof regular registration plates. [1983 c.338 §265; 1985 c.16 §106; 1993 c.741 §132]

805.240 Customized plates; fee. The Department of Transportation is authorized to issue customized registration plates upon the request of vehicle owners. Such registration plates shall meet the requirements for registration plates described in ORS 803.535. The fee for issuance of the customized plates is as provided under ORS 805.250. [1983 c.338 §266; 1993 c.741 §133]

805.242 Transfer of plates that are not from current issue; fee. Notwithstanding ORS 803.530, the Department of Transportation shall approve a request to transfer registration plates that are not from a current issue of plates if the owner of the plates submits an application for transfer along with the plate transfer fee and the fee for a customized registration plate established in ORS 805.250, in addition to any required registration fee. Upon transfer of the plates, the plates shall for all purposes be considered customized registration plates issued as provided in ORS 805.240. [1993 c.741 §116a; 2018 c.114 §15]

805.250 Fees for special plates. This section establishes fees for issuance of registration plates authorized under ORS 805.200. If a fee for plates authorized in ORS 805.200 is not established in this section, the fee is the same fee as established under ORS 803.570. Where a fee is established under this section, the fee is in addition to the fee established under ORS 803.570 unless otherwise provided in the following:

(1) Amateur radio operator registration plates issued under ORS 805.230, $5.

(2) Customized registration plates issued under ORS 805.240:

(a) For original issuance or renewal, $50 annual fee.

(b) For issuance of a duplicate or replacement plate, $5 when the plate is issued at the time of renewal of registration or $10 when the plate is issued at any other time.

(3) Special interest registration plates approved under ORS 805.210 are approved without cost except as provided in this subsection, including without payment of the fee established under ORS 803.570. If identifying stickers are required, $1 per sticker or pair of stickers.

(4) Dealer plates issued under ORS 822.020 and 822.040 are as follows:

(a) For the original dealer plate, no fee except the fee established under ORS 803.570.

(b) For replacement dealer plates, $10 for each plate except that persons dealing exclu-

sively in motorcycles, mopeds, snowmobiles or any combination of those vehicles shall pay only $3 for each replacement plate.

(c) For additional plates, or for renewal of registration, $42, except that persons dealing exclusively in motorcycles, mopeds or snowmobiles or any combination of those vehicles shall pay only $9 for each additional plate, or for renewal of registration.

(5) Special vehicle transporter plates or devices issued under ORS 822.310, $5 for each plate or device. [1983 c.338 §270; 1985 c.16 §109; 1985 c.174 §7; 1985 c.400 §3; 1985 c.570 §2; 1985 c.668 §15; 1987 c.25 §5; 1987 c.261 §2; 1989 c.43 §32; 1991 c.481 §4; 1993 c.741 §134; 1999 c.977 §§22,22a; 1999 c.1009 §2; 2007 c.667 §4; 2009 c.865 §45]

(Salmon Registration Plate)

805.255 Salmon registration plate; rules; fees. (1) The Department of Transportation shall establish a salmon registration plate program to issue special registration plates called "salmon registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a) to observe the importance of salmonid to Oregon. In addition, the department may adopt rules for issuance of salmon registration plates for vehicles not registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each salmon registration plate issued under subsection (1) of this section, the department shall collect a surcharge of $7.50 for each year of the registration period, payable when the plate is issued and upon each subsequent renewal of registration of a vehicle bearing the plate. The department shall distribute the surcharge as provided in ORS 805.256. [1997 c.672 §6; 2001 c.124 §5; 2003 c.14 §464; 2003 c.409 §5; 2017 c.750 §39m]

805.256 Disposition of moneys from salmon registration plate surcharge. (1) After deduction of the cost of administration of the salmon registration plate program, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as follows:

(a) Half of the moneys shall be transferred to the Watershed Conservation Grant Fund and used only for funding projects under ORS 541.956 to:

(A) Protect or restore native salmon habitat; or

(B) Restore natural watershed or ecosystem functions by removing artificial obstructions to native salmon migration.

(b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund established under ORS 390.134 and continuously appropriated for the purposes described in ORS 390.134 (4).

(2) As used in this section, "the cost of administration of the salmon registration plate program" is the sum of all Department of Transportation expenses for the issuance or transfer of salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the salmon registration plate surcharge and transferring salmon registration plates. [1997 c.672 §7; 2003 c.14 §465; 2009 c.21 §37; 2011 c.643 §19; 2015 c.742 §1]

(Cultural Registration Plate)

805.260 Cultural registration plates; rules; fees. (1) The Department of Transportation shall establish a cultural registration plate program to issue special registration plates called "cultural registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a) to observe the importance of culture to Oregon. In addition, the department may adopt rules for issuance of cultural registration plates for vehicles not registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each cultural registration plate issued under subsection (1) of this section, the department shall collect a surcharge of $15 payable when the plate is issued and upon each subsequent renewal of registration of a vehicle bearing the plate. The department shall distribute the surcharge as provided in ORS 805.261.

(3) The department, in consultation with the Trust for Cultural Development Board, shall design the cultural registration plates. The plates shall meet the requirements for registration plates described in ORS 803.535. [2001 c.954 §21; 2003 c.409 §7; 2017 c.750 §39n]

805.261 Disposition of moneys from cultural registration plate surcharge. (1) After deduction of the cost of administration of the cultural registration plate program, moneys from the surcharge imposed by ORS 805.260 shall be transferred to the Trust for Cultural Development Account established under ORS 359.405.

(2) As used in this section, "the cost of administration of the cultural registration plate program" is the sum of all Department of Transportation expenses for the issuance or transfer of cultural registration plates under ORS 805.260 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the

costs of collecting the cultural registration plate surcharge and transferring cultural registration plates. [2001 c.954 §22; 2005 c.755 §56]

(Crater Lake National Park Registration Plate)

805.263 Crater Lake National Park registration plate; rules; fees. (1) The Department of Transportation shall establish a Crater Lake National Park registration plate program to issue special registration plates called "Crater Lake National Park registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a) to commemorate the 100th anniversary of Crater Lake National Park. The department may adopt rules for issuance of Crater Lake National Park registration plates for vehicles that are not registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each Crater Lake National Park registration plate issued under subsection (1) of this section, the department shall collect a surcharge of $15 payable when the plate is issued. The department shall distribute the surcharge as provided in ORS 805.264. [2001 c.824 §1; 2003 c.409 §6; 2017 c.87 §1; 2017 c.750 §39o]

Note: 805.263 and 805.264 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

805.264 Disposition of moneys from Crater Lake National Park registration plate surcharge. (1) After deduction of the cost of administration of the Crater Lake National Park registration plate program, the Department of Transportation shall transfer moneys from the surcharge imposed by ORS 805.263 to the Oregon Community Foundation for use on Crater Lake National Park projects.

(2) As used in this section, "the cost of administration of the Crater Lake National Park registration plate program" is the sum of all Department of Transportation expenses for the issuance or transfer of Crater Lake National Park registration plates under ORS 805.263 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of business in the department. These expenses include, but are not limited to, the costs of collecting the Crater Lake National Park registration plate surcharge and transferring Crater Lake National Park registration plates. [2001 c.824 §2; 2007 c.341 §1]

Note: See note under 805.263.

(Wine Country Registration Plate)

805.266 Wine country registration plate; fee. (1) The Department of Transportation shall establish a wine country registration plate program to issue special registration plates called "wine country registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of wine country registration plates issued under subsection (1) of this section, the department shall collect a surcharge of $30 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall transfer the moneys from the surcharge as provided in ORS 805.272. [2011 c.709 §2; 2015 c.138 §24; 2017 c.750 §39p]

805.268 Wine country registration plate design. (1) The Department of Transportation, in consultation with the Oregon Tourism Commission and Travel Salem, shall design the wine country registration plates issued under ORS 805.266.

(2) Except as otherwise required by subsection (1) of this section, wine country registration plates shall comply with the requirements of ORS 803.535. [2011 c.709 §5]

805.272 Disposition of moneys from wine country registration plate surcharge. (1) After the deduction of the cost of administration of the wine country registration plate program, the Department of Transportation shall deposit the net proceeds of the surcharge collected by the department under ORS 805.266 into the account of the Oregon Tourism Commission established under ORS 284.131. The department shall make deposits under this subsection at least quarterly.

(2) Moneys deposited under subsection (1) of this section are continuously appropriated to the Oregon Tourism Commission for the purposes set forth in ORS 284.131.

(3) As used in this section, "the cost of administration of the wine country registration plate program" means the sum of all department expenses for the issuance or transfer of wine country registration plates under ORS 805.266 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the wine country registration plate surcharge and transferring wine country registration plates. [2011 c.709 §4]

805.274 Distribution of moneys; rules. (1) After payment of the cost of production of the wine country registration plates including administrative expenses relating to marketing the wine country registration plates issued under ORS 805.266, the Oregon Tourism Commission shall distribute the moneys received from the Department of Transportation pursuant to ORS 805.272 as follows:

(a) One half of the moneys shall be distributed as matching grants. The commission shall develop a matching grant program and shall award grants to tourism promotion agencies for tourism promotion of wine and culinary tourism. The commission shall establish the maximum grant amount in the applicant guidelines prepared for the matching grant program in each biennium. No more than 50 percent of the total cost of a project may be paid for with moneys from the program. An applicant must show a minimum one-to-one match from private or public sources other than Oregon Business Development Department or commission programs. The applicant must also show a cash match of at least 50 percent of the amount requested under the matching grant program.

(b) One half of the moneys shall be distributed to tourism promotion agencies for the purpose of wine and culinary tourism promotion. The commission shall distribute the moneys in proportion to the amount of acreage in each region used for wine grape production. The commission shall designate a tourism promotion agency for each region. The regions shall include the mid-Willamette Valley region and each other major wine producing region of the state as determined by the commission. The commission shall require, by rule, tourism promotion agencies to collaborate with the Oregon Wine Board and relevant regional wine industry associations designated by the commission whenever the tourism promotion agencies develop expenditure plans for moneys distributed by the commission under this section.

(2) The commission annually shall submit a report on the moneys distributed under this section to the Legislative Assembly in the manner provided in ORS 192.245 on or before October 1.

(3) The commission shall adopt rules to carry out this section.

(4) As used in this section:

(a) "Mid-Willamette Valley region" means Marion, Polk and Yamhill Counties.

(b) "Tourism promotion" has the meaning given that term in ORS 320.300.

(c) "Tourism promotion agency" has the meaning given that term in ORS 320.300. [2011 c.709 §6; 2016 c.124 §1]

(Portland Trail Blazers Registration Plate)

805.278 Portland Trail Blazers registration plate; rules; fee. (1) The Department of Transportation shall establish a Portland Trail Blazers registration plate program to issue special registration plates to support charitable initiatives through the Trail Blazers Foundation established by the Portland Trail Blazers. The special registration plates shall be issued upon request to owners of motor vehicles registered under ORS 803.420 (6)(a). In addition, the department may adopt rules for issuance of Portland Trail Blazers registration plates for vehicles not registered under ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of Portland Trail Blazers registration plates issued under subsection (1) of this section, the department shall collect a surcharge of $40 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall distribute the moneys from the surcharge as provided in ORS 805.279.

(3) Notwithstanding ORS 803.530, Portland Trail Blazers registration plates may be transferred from vehicle to vehicle if the department stops issuing the plates, as long as the plates are legible and capable of being used for identification purposes.

(4) The Portland Trail Blazers registration plate must include the name or logo of the Portland Trail Blazers basketball team. The department shall design the plate in consultation with the Portland Trail Blazers. The final design of the plate is subject to approval by the Portland Trail Blazers. The department may enter into agreements necessary for the use of the logo, name, marks or slogans associated with the Portland Trail Blazers or the National Basketball Association.

(5) Except as otherwise required by the design approved by the department, Portland Trail Blazers registration plates must comply with the requirements of ORS 803.535. [2015 c.806 §2; 2017 c.750 §39q; 2018 c.114 §12]

805.279 Disposition of moneys from Portland Trail Blazers registration plate surcharge. (1) Moneys from the surcharge imposed by ORS 805.278 must be transferred to the Trail Blazers Foundation established by the Portland Trail Blazers after deduction of the cost of administration of the Portland Trail Blazers registration plate program, including but not limited to the costs of collecting the Portland Trail Blazers registration plate surcharge and transferring

Portland Trail Blazers registration plates that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of business of the Department of Transportation. Any royalties due to the National Basketball Association are the responsibility of the Portland Trail Blazers.

(2) The Trail Blazers Foundation shall use the surcharge proceeds received under this section to issue grants for youth-related programs and initiatives.

(3) Each year, the Trail Blazers Foundation shall report to a committee or interim committee of the Legislative Assembly related to transportation. The report must provide information about the grants awarded with the funds from the surcharge. [2015 c.806 §3]

(Breast Cancer Awareness Registration Plate)

805.283 Breast cancer awareness registration plate; rules; fee. (1) The Department of Transportation shall establish a breast cancer awareness registration plate program to issue special registration plates called "breast cancer awareness registration plates" upon request to owners of motor vehicles registered under ORS 803.420 (6)(a). In addition, the department may adopt rules for issuance of breast cancer awareness registration plates for vehicles not registered under ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of breast cancer awareness registration plates issued under subsection (1) of this section, the department shall collect a surcharge of $40 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall distribute the surcharge as provided in ORS 805.285.

(3) Notwithstanding ORS 803.530, breast cancer awareness registration plates may be transferred from vehicle to vehicle if the department stops issuing the plates, as long as the plates are legible and capable of being used for identification purposes. [2015 c.806 §6; 2017 c.750 §39r; 2018 c.114 §13]

805.285 Disposition of moneys from breast cancer awareness registration plate surcharge. (1) Moneys from the surcharge imposed by ORS 805.283 must be transferred to the Oregon Health Authority Fund established by ORS 413.101 after deduction of the cost of administration of the breast cancer awareness registration plate program, including but not limited to the costs of collecting the breast cancer awareness registration plate surcharge and transferring breast cancer awareness registration plates that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of business of the Department of Transportation.

(2) Moneys deposited under subsection (1) of this section are continuously appropriated to the Oregon Health Authority for activities under ORS 414.534 related to early detection of breast and cervical cancers as part of the Oregon Breast and Cervical Cancer Program. [2015 c.806 §7]

(Pacific Wonderland Registration Plate)

805.287 Pacific Wonderland registration plate; rules; fee. (1) The Department of Transportation shall establish a Pacific Wonderland registration plate program to issue special registration plates called "Pacific Wonderland registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a). In addition, the department may adopt rules for issuance of Pacific Wonderland registration plates for vehicles not registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of Pacific Wonderland registration plates issued under subsection (1) of this section, the department shall collect a surcharge of $100 payable when the plates are issued. The department shall transfer the moneys from the surcharge as provided in ORS 805.289.

(3) Notwithstanding ORS 803.530, Pacific Wonderland registration plates may be transferred from vehicle to vehicle if the department stops issuing the plates, as long as the plates are legible and capable of being used for identification purposes. [2009 c.823 §2; 2011 c.709 §8; 2015 c.390 §1; 2015 c.806 §18; 2017 c.750 §39s; 2018 c.93 §36; 2018 c.114 §14]

805.289 Disposition of moneys from Pacific Wonderland registration plate surcharge. (1) After deduction of the cost of administration of the Pacific Wonderland registration plate program, the Department of Transportation shall transfer 50 percent of the moneys from the surcharge imposed by ORS 805.287 to the Oregon State Capitol Foundation for the general purposes of the foundation under ORS 173.500 and 50 percent to the Oregon Historical Society.

(2) As used in this section, the cost of administration of the Pacific Wonderland registration plate program is the sum of all department expenses for the issuance or transfer of Pacific Wonderland registration plates under ORS 805.287 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the Pacific

Wonderland registration plate surcharge and transferring Pacific Wonderland registration plates. [2009 c.823 §3; 2010 c.30 §7; 2015 c.390 §2]

FARM VEHICLES

805.300 Farm vehicle registration; general requirements; fees. Any farmer who is the owner of a motor vehicle may apply to the Department of Transportation for and, upon payment of appropriate fees, may receive farm vehicle registration described in this section to operate the vehicle. Farm vehicle registration is subject to the following as described:

(1) Application is as provided under ORS 805.320.

(2) Qualification is as provided under ORS 805.310.

(3) The fees are as provided under ORS 803.420.

(4) The registration period is as provided under ORS 803.415.

(5) Once registered under a farm vehicle registration, a vehicle may be used only for purposes described under ORS 805.390. Violation of limits imposed on use is punishable as provided under ORS 805.350.

(6) Vehicles are exempt from or subject to regulation under ORS chapter 825 as provided in ORS 825.024.

(7) Transfer is subject to ORS 805.340.

(8) The registration may be canceled as provided under ORS 805.380. [1983 c.338 §766; 1985 c.16 §366; 1989 c.723 §15; 1993 c.741 §135; 1993 c.751 §109]

805.310 Qualifications for registration. To qualify for issuance of registration described under ORS 805.300 a person must be engaged, either as owner or renter, in operating one or more farms, orchards or ranches actually producing agricultural products or raising livestock in sufficient quantities to reasonably require the use of the motor vehicle or vehicles for which the farm vehicle license is sought. Cooperative corporations or associations organized under the provisions of ORS chapter 62 or corporations or subsidiaries of corporations do not qualify for the issuance of licenses described under ORS 805.300 if owned by more than 100 shareholders. As used in this section, "shareholder" has the meaning given that term in ORS 60.001. [1983 c.338 §769; 1985 c.16 §368; 1987 c.94 §109; 2003 c.80 §26]

805.320 Application for registration. Application for registration described under ORS 805.300 shall be made in a form prescribed by the Department of Transportation and certified to by the applicant and shall include all of the following:

(1) The name and residence or business address of the applicant, except as provided for Address Confidentiality Program participants in ORS 192.846.

(2) The number of acres as shown on the latest county real property tax statements of one or more of the farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used.

(3) The type and amount of agricultural commodities, agricultural products or livestock produced annually on one or more of the farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used.

(4) The number of trucks used on the one or more farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used and the combined weight of the motor vehicle sought to be registered.

(5) A statement that any motor vehicle registered under ORS 805.300:

(a) Will be used for one or more of the purposes specified under ORS 805.390.

(b) Will not be used, at any time while registered under ORS 805.300, for any other purpose or for the transportation of any other commodities or products for hire except as provided under ORS 825.024.

(c) Is needed in the operation of the one or more farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used.

(6) Any other information required by the department.

(7) Additional information required by law or by the department in making an application for regular registration for the motor vehicle.

(8) The application shall contain a declaration that it is made under penalties for false certification. Violation of this subsection is subject to penalties under ORS 805.370. [1983 c.338 §770; 1985 c.16 §369; 1989 c.723 §16; 1991 c.284 §22; 1993 c.368 §2; 1993 c.751 §98; 1995 c.522 §2; 2007 c.542 §19; 2008 c.10 §4]

805.322 Annual proof of qualification for farm vehicle registration. The owner of a vehicle or combination that has four or more axles and that is registered as a farm vehicle under ORS 805.300 or has a farm device issued pursuant to ORS 805.400 shall annually show to the satisfaction of the Department of Transportation that the owner meets the qualifications of ORS 805.320. [1993 c.368 §4]

805.330 [1983 c.338 §771; 1985 c.16 §370; repealed by 1993 c.751 §106]

805.340 Effect of sale of vehicle. Upon sale of a vehicle registered under ORS 805.300, prior to operation of the vehicle on

a highway, the new owner must reregister the vehicle unless the new owner is qualified under ORS 805.310 to register the vehicle under ORS 805.300. [1983 c.338 §774; 1985 c.16 §371; 1993 c.741 §136]

805.350 Violation of farm registration limits; penalty. (1) A person commits the offense of violation of farm registration limits if the person uses or owns and permits to be used a vehicle registered under ORS 805.300 for purposes other than purposes described under ORS 805.390.

(2) The offense described in this section, violation of farm registration limits, is a Class A misdemeanor. [1983 c.338 §775; 1985 c.16 §372]

805.360 Failure to register farm vehicle properly; penalty. (1) A person commits the offense of failure to register a farm vehicle properly if the person is the new owner of a vehicle with registration under ORS 805.300, and the person operates the vehicle before properly registering it.

(2) Nothing in this section prohibits a person from registering the vehicle under ORS 805.300 if qualifications for registration under that section are met.

(3) The offense described in this section, failure to register a farm vehicle properly, is a Class A misdemeanor. [1983 c.338 §776; 1985 c.16 §373; 1993 c.741 §137]

805.370 False certification; penalty. (1) A person commits the offense of false certification on farm registration if the person knowingly certifies falsely to any information on any application for issuance of registration under ORS 805.320.

(2) The offense described in this section, false certification on farm registration, is a Class A misdemeanor. [1983 c.338 §777; 1985 c.16 §374; 1993 c.751 §110]

805.380 Department investigation; cancellation. The Department of Transportation shall have the authority to investigate and verify information provided in conjunction with application for registration under ORS 805.300. The department may cancel the registration of any vehicle that has registration issued under ORS 805.300 if the owner or a lessee or an employee of either is convicted of violation of ORS 805.350 to 805.370, if the department determines that such person has violated ORS 805.350 to 805.370 whether or not the person is convicted for the violation or if the department determines that either the vehicle or the owner no longer qualifies for farm vehicle registration. If registration is canceled under this section, the vehicle shall not again be eligible for registration under ORS 805.300 for a period of one year after the cancellation. [1985 c.16 §377; 1993 c.741 §138]

805.390 Permitted uses of farm-registered vehicles. This section establishes the uses allowed for vehicles registered under ORS 805.300, and for vehicles authorized by ORS 805.400 to be registered under ORS 826.009 or 826.011. Vehicles with farm vehicle registration or farm vehicle proportional registration may only be used for purposes described in this section. Uses permitted on a farm under this section are also permitted on one or more farms, orchards or ranches of the qualifying farmer. Violation of the limits established under this section is subject to penalty under ORS 805.350. The following describes the uses permitted vehicles registered under ORS 805.300 and for vehicles authorized by ORS 805.400 to be registered under ORS 826.009 or 826.011:

(1) The vehicles may be used in transporting the farmer's own agricultural commodities, agricultural products or livestock that were originally grown or raised by the farmer on the farmer's own farm. This subsection includes products and by-products of commodities or livestock that were packed, processed or manufactured by or for the farm operation so long as the farmer retains ownership of the products but does not include products that have been transformed into a finished state. For purposes of this subsection, products have not been transformed into a finished state if the products:

(a) Will be used in agricultural production;

(b) Will be used in the production of another product;

(c) Are not changed in visible character; or

(d) Are of a type or kind ordinarily requiring further processing prior to sale to the ultimate consumer.

(2) The vehicles may be used in any transportation that is incidental to the regular operation of the farmer's farm.

(3) The vehicles may be used to transport supplies, equipment or materials to the farmer's farm that are consumed or used on the farm.

(4) The vehicles may be used in transporting forest products to the farmer's own farm or transporting for any purpose forest products originating on the farmer's farm. The only forest products included under this subsection are forest materials originating on a farm or as an incident to the regular operation of a farm.

(5) The vehicles may be used in the transportation of products, supplies, equipment or materials for another farmer who qualifies under ORS 805.310 on an exchange of labor basis if such products, supplies, equipment or materials are to be used or

consumed on such farm or are directly related to the operation of the farm.

(6) The vehicles may be operated for the personal use of the farmer, any member of the farmer's immediate family or any person in the farmer's employ.

(7) The vehicles shall not be used to transport any of the following:

(a) Piling.

(b) Poles over 30 inches in circumference at the large end.

(c) Except as otherwise provided in this paragraph, logs over eight feet six inches in length. A vehicle may be used to transport logs over eight feet six inches but not over 16 feet 6 inches in length if the vehicle has a loaded weight of 16,000 pounds or less.

(8) The vehicles may be partially operated under a permit issued by the Department of Transportation under ORS 825.102, as described in ORS 825.024. When operated under a permit issued under ORS 825.102, the vehicles are subject to ORS chapter 825.

(9) The vehicles may be partially operated for hire as permitted in ORS 825.024 (1)(c) and (d).

(10) The vehicles may be rented or borrowed by a farmer to haul the farmer's own products if the farmer would qualify for farm vehicle registration for vehicles of the type and size rented or borrowed.

(11) The vehicles may be used in transporting straw, whether or not the straw was grown on the farmer's own farm, if the transporting farmer is the one who bales the straw. [1983 c.338 §767; 1985 c.16 §367; 1985 c.668 §20; 1989 c.43 §33; 1993 c.368 §5; 1995 c.248 §1; 1995 c.522 §5; 1999 c.59 §237]

805.400 Proportional registration for farm vehicles; rules. (1) Any person who qualifies under ORS 805.310 for farm vehicle registration under ORS 805.300 may choose to register farm qualified vehicles under the proportional registration provisions of ORS 826.009 or 826.011 in lieu of registering the vehicles under the farm vehicle registration provisions of ORS 805.300. Except as otherwise provided in this section, farm vehicles registered under ORS 826.009 or 826.011 are subject to the same requirements, conditions and privileges as other vehicles registered under those sections. Farm vehicle proportional registration is subject to the following:

(a) In addition to any application for registration required by ORS 826.009 or 826.011, the applicant must submit an application to the Department of Transportation certified by the applicant and containing the information specified in ORS 805.320 for farm vehicle registration.

(b) The department shall issue appropriate identification devices for proportionally registered farm vehicles. The design for such devices shall be determined by the department by rule and the fees for such devices are as provided in ORS 803.577.

(c) An identification device for proportionally registered farm vehicles is subject to cancellation as provided in ORS 805.410.

(2) The following provisions apply to a vehicle that has been issued farm vehicle proportional registration:

(a) The vehicle may be used only for purposes described in ORS 805.390. Violation of this paragraph is punishable as provided in ORS 805.350 for violation of farm registration limits.

(b) The vehicle is exempt from or subject to regulation under ORS chapter 825 to the same extent and in the same manner as provided in ORS 825.024 for vehicles registered under ORS 805.300. [1985 c.668 §18; 1989 c.43 §34; 1991 c.284 §23; 1991 c.407 §37; 1993 c.751 §111]

805.410 Department investigation of farm vehicle proportional registration application; cancellation. (1) The Department of Transportation shall have the authority to investigate and verify information provided in conjunction with application for proportional registration of a farm vehicle under ORS 805.400. The department may cancel an identification device for a proportionally registered farm vehicle if the department determines that the owner or lessee of the vehicle, or an employee of either, has:

(a) Operated the vehicle in violation of farm registration limits; or

(b) Falsely certified an application required by ORS 805.400 for registration or renewal of registration of a proportionally registered farm vehicle.

(2) If a farm vehicle proportional registration identification device is canceled under this section, the vehicle is not eligible for registration under ORS 805.300 for a period of one year after the cancellation. [1985 c.668 §19]

Chapter 806

2019 EDITION

Financial Responsibility Law

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GENERAL PROVISIONS

806.010 Driving uninsured prohibited; penalty. (1) A person commits the offense of driving uninsured if the person operates a motor vehicle in this state on any highway or premises open to the public in this state without either:

(a) The person being insured while driving the vehicle under a motor vehicle liability insurance policy that meets the requirements described under ORS 806.080; or

(b) The person or the owner of the vehicle providing the Department of Transportation with other satisfactory proof of compliance with the financial responsibility requirements of this state.

(2) Exemptions from this section are established under ORS 806.020.

(3) In addition to other penalties under this section the following apply:

(a) A person who is involved in a motor vehicle accident at any time the person is in violation of this section is subject to suspension of the person's driving privileges under ORS 809.417.

(b) A person who is convicted of violating this section is subject to ORS 806.230, if the person does not make future responsibility filings as required by that section.

(4) A person convicted for violation of this section must file with the department, and thereafter maintain for a period of three years, proof of financial responsibility that complies with ORS 806.060. Failure to comply with this subsection is subject to ORS 809.415.

(5) The offense described in this section, driving uninsured, is a Class B traffic violation. [1983 c.338 §837; 1985 c.16 §422; 1985 c.714 §1; 1991 c.350 §1; 1991 c.702 §4; 2003 c.402 §12]

806.011 Proof of insurance; rules. (1) Proof of insurance issued as provided in ORS 742.447, or other current proof of compliance with financial or future responsibility requirements approved by rule by the Department of Transportation, shall be carried in each motor vehicle that is operating in this state and that is not exempt from compliance with financial or future responsibility requirements.

(2) The use of an electronic device to display proof of insurance does not constitute consent for a police officer to access other contents of the electronic device.

(3) Failure of the driver of a motor vehicle to show proof of insurance or other current proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010.

(4) The registered owner of the motor vehicle may black out or otherwise obscure the residence address, business address, mailing address or vehicle address shown on the proof of insurance, or other current proof of compliance with financial or future responsibility requirements approved by rule by the department. No other information may be blacked out or otherwise obscured. [1993 c.746 §2; 2013 c.108 §2; 2017 c.471 §2]

806.012 Failure to carry proof of compliance with financial responsibility requirements; rules; penalty. (1) A person commits the offense of failure to carry proof of compliance with financial responsibility requirements if the person operates a motor vehicle in this state and does not have in the vehicle current proof of compliance with financial responsibility requirements.

(2) The Department of Transportation shall determine by rule what constitutes proof of compliance with financial responsibility requirements.

(3) This section does not apply:

(a) To persons operating motor vehicles that are exempt from financial responsibility requirements by ORS 806.020; or

(b) If a police officer verifies proof of compliance with financial responsibility requirements through the Law Enforcement Data System.

(4) The court shall dismiss any charge under this section if, prior to the court appearance date listed on the citation, the person charged delivers to the clerk of the court named on the citation proof of compliance with financial responsibility requirements at the time of the violation.

(5) The offense described in this section, failure to carry proof of compliance with financial responsibility requirements, is a Class B traffic violation. [1993 c.751 §101; 2005 c.361 §1; 2013 c.108 §3]

806.014 [1993 c.814 §§5,7; renumbered 809.715 in 1995]

806.016 [1993 c.814 §6; renumbered 809.716 in 1995]

806.020 Exemptions from financial responsibility requirements. This section provides exemptions from the necessity for compliance with or proof of compliance with financial responsibility requirements in accident reports under ORS 811.725, when applying for vehicle registration under ORS 803.370 or 803.460 and for operating a vehicle under ORS 806.010. The owner or operator of a vehicle is exempt, as provided by this section, from financial responsibility requirements if the vehicle involved in the accident, sought to be registered or operated is any of the following:

(1) An antique vehicle issued permanent registration under ORS 805.010.

(2) A farm trailer.

(3) A farm tractor.

(4) An implement of husbandry.

(5) A vehicle of special interest that is maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(6) A snowmobile or a Class I, Class III or Class IV all-terrain vehicle, unless the vehicle is operating on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles.

(7) Any motor vehicle not operated on any highway or premises open to the public in this state.

(8) A motor assisted scooter.

(9) An electric personal assistive mobility device. [1983 c.338 §838; 1985 c.16 §423; 1987 c.217 §4; 1989 c.991 §32; 1993 c.751 §99; 2001 c.749 §22; 2003 c.341 §5; 2009 c.257 §1; 2011 c.360 §15; 2015 c.138 §29; 2017 c.453 §8]

806.030 [1983 c.338 §839; repealed by 2009 c.257 §11]

806.040 Judgments for which financial responsibility requirements established. Financial responsibility requirements are designed to provide for minimum payment of judgments of the type described in this section. For the purposes of ORS 806.130, 806.140, 809.020, 809.130 and 809.470, judgments of the type described in this section must:

(1) Have become final by expiration, without appeal, of the time within which an appeal might have been perfected or by final affirmation on appeal;

(2) Be rendered by a court of competent jurisdiction of any state or of the United States;

(3) Be upon a cause of action for damages of the type described under subsection (4) of this section or upon a cause of action on an agreement of settlement for such damages; and

(4) Be for one or more of the following kinds of damage arising out of a motor vehicle accident on public or private property:

(a) Damages, including damages for care and loss of services, because of bodily injury to or death of any person.

(b) Damages because of injury to or destruction of property, including the loss of use thereof. [1983 c.338 §840; 1985 c.16 §424; 1987 c.258 §1; 1995 c.41 §4; 2003 c.175 §4; 2009 c.257 §10]

806.050 Falsification of financial responsibility; penalty. (1) A person commits the offense of falsification of financial responsibility if the person does any of the following:

(a) Forges or, without authority, signs any evidence of proof of compliance with financial responsibility requirements.

(b) Files or offers for filing any evidence of proof of compliance with financial responsibility requirements knowing or having reason to believe that the proof of compliance is forged or signed without authority.

(c) Knowingly certifies falsely to the existence of motor vehicle liability insurance meeting the requirements under ORS 806.080 or some other means of satisfying the financial responsibility requirements or making a financial responsibility filing.

(2) A denial of coverage, signed by an officer or agent of an insurer, returned to the Department of Transportation after inquiry from the department as to the existence of liability insurance under ORS 806.150 or 811.725 is prima facie evidence of false certification.

(3) Any person convicted of knowingly certifying falsely to the existence of motor vehicle liability insurance or to the existence of some other means of satisfying the financial responsibility requirements shall be imprisoned for no less than three consecutive days. In no case shall the execution of the punishment imposed by this section be suspended by the court, nor shall any person subject to such punishment be sentenced to probation by the court.

(4) A person who is convicted for violation of this section is subject to ORS 806.230 if the person does not make future responsibility filings as required by that section.

(5) The offense described in this section, falsification of financial responsibility, is a Class B misdemeanor except that violation of subsection (1)(c) of this section is a Class A misdemeanor. [1983 c.338 §841; 1985 c.16 §425; 1985 c.393 §62; 1993 c.14 §27; 2019 c.312 §2]

806.055 Giving false information about liability insurance to police officer; penalty. (1) A person commits the offense of giving false information about liability insurance to a police officer if the person knowingly gives false information about the person's motor vehicle liability insurance coverage to any police officer who is enforcing motor vehicle laws.

(2) The offense described in this section, giving false information about liability insurance to a police officer, is a Class B misdemeanor. [1991 c.330 §2]

REQUIREMENTS

(Generally)

806.060 Methods of compliance. A person who is required to comply with the financial responsibility requirements of this state must be able to respond in damages, in amounts required under this section, for liability on account of accidents arising out of the ownership, operation, maintenance or use of motor vehicles and must establish that ability by one of the methods required by this section. All of the following apply to the financial responsibility requirements of this state:

(1) To meet the financial responsibility requirements, a person must be able to respond in damages in amounts not less than those established under the payment schedule under ORS 806.070.

(2) A person may only comply with the financial responsibility requirements of this state by establishing the required ability to respond in damages in one of the following ways:

(a) Obtaining a motor vehicle liability policy meeting the requirements under ORS 806.080 that will provide at least minimum limits necessary to pay amounts established under the payment schedule under ORS 806.070.

(b) Becoming self-insured as provided under ORS 806.130. [1983 c.338 §842; 1985 c.16 §426; 1995 c.41 §5; 2003 c.175 §5]

806.070 Minimum payment schedule. (1) This section establishes a schedule of payments for the following purposes:

(a) An insurance policy described under ORS 806.080 must provide for payment of at least amounts necessary to cover the minimum required payments under this section to qualify for use for financial responsibility under ORS 806.060.

(b) A person who is self-insured under ORS 806.130 must agree to pay according to the payment schedule established by this section.

(c) The payment schedule is the minimum required payment of a judgment for purposes of ORS 809.020, 809.130 and 809.415.

(2) The schedule of payments is as follows:

(a) $25,000 because of bodily injury to or death of one person in any one accident;

(b) Subject to that limit for one person, $50,000 because of bodily injury to or death of two or more persons in any one accident; and

(c) $20,000 because of injury to or destruction of the property of others in any one accident. [1983 c.338 §843; 1985 c.16 §427; 1995 c.41 §6; 2003 c.175 §6; 2003 c.402 §13; 2009 c.66 §2]

806.075 Insurance requirements for person convicted of driving under influence of intoxicants. Notwithstanding any other provision of this chapter, a person convicted of driving under the influence of intoxicants under ORS 813.010 is subject to the following requirements for the method of complying with and the amounts needed to meet financial responsibility requirements and for the duration of future responsibility filings:

(1) The person must have a certificate or certificates of insurance that meet the requirements of ORS 806.270 except that the certificate or certificates must show that the person is covered by insurance that provides at least:

(a) $50,000 because of bodily injury to or death of one person in any one accident;

(b) Subject to that limit for one person, $100,000 because of bodily injury to or death of two or more persons in any one accident; and

(c) $10,000 because of injury to or destruction of the property of others in any one accident.

(2) The person must maintain future responsibility filings showing insurance coverage in the amounts specified in subsection (1) of this section for a period of three years from the date that the first filing is required. [1987 c.774 §95; 1991 c.768 §9]

(Insurance)

806.080 Insurance. (1) A motor vehicle liability insurance policy used to comply with financial responsibility requirements under ORS 806.060 must meet all of the following requirements:

(a) It must be a policy or part of a policy designating, by explicit description or by appropriate reference, all motor vehicles for which coverage is provided by the policy.

(b) It must insure the named insured and all other persons insured under the terms of the policy against loss from the liabilities imposed by law for damages arising out of the ownership, operation, use or maintenance of those motor vehicles by persons insured under the policy. The policy must include in its coverage all persons who, with the consent of the named insured, use the motor vehicles insured under the policy, except for any person specifically excluded from coverage under ORS 742.450.

(c) It must provide the minimum limits of coverage required under ORS 806.070.

(2) The requirements for the insurance may be fulfilled by the policies of one or

more insurance carriers which policies together meet such requirements. [1983 c.338 §844; 1991 c.768 §8]

806.090 [1983 c.338 §845; 1999 c.59 §238; repealed by 2003 c.175 §1]

806.100 [1983 c.338 §846; 1985 c.16 §428; repealed by 2003 c.175 §1]

806.110 [1983 c.338 §847; repealed by 1995 c.41 §9]

806.115 [1995 c.41 §2; repealed by 2003 c.175 §1]

806.120 [1983 c.338 §848; 1985 c.16 §429; repealed by 1995 c.41 §9]

(Self-Insurance)

806.130 Self-insurance. (1) To qualify as a self-insurer for purposes of financial responsibility requirements under ORS 806.060, a person must do all of the following:

(a) Apply to the Department of Transportation and be issued by the department a certificate of self-insurance under ORS 806.140.

(b) Either:

(A) Establish to the satisfaction of the department that the person possesses and will continue to possess the ability to pay and discharge judgments described under ORS 806.040 that might be obtained against the applicant; or

(B) Be qualified under the laws of the State of Oregon or under an ordinance of a city of this state to act as a self-insurer and be acting as a self-insurer.

(c) Agree to provide the same coverage and to pay the same amounts with respect to an accident occurring while the certificate is in force that an insurer would be obligated to provide and to pay under a motor vehicle liability insurance policy, including providing the coverage required under ORS 806.080 (1)(b) and uninsured motorist coverage and liability coverage to at least the limits specified in ORS 806.070.

(d) Have more than 25 motor vehicles including commercial buses registered in the person's name.

(2)(a) If an accident occurs while a certificate of self-insurance issued under ORS 806.140 is in force, the liability protection provided and the amounts paid under subsection (1)(c) of this section are secondary to any motor vehicle liability insurance or uninsured motorist coverage available to a customer of the self-insurer, an operator of the self-insured vehicle or an occupant of the self-insured vehicle unless otherwise agreed to by the self-insurer. A self-insurer is required to provide the minimum payments established under ORS 742.502 and 806.070 only when the motor vehicle liability insurance policy of a customer of the self-insurer or an operator of the self-insured vehicle does not provide the minimum required payments established in ORS 742.502 and 806.070.

(b) A self-insurer may recover from a customer of the self-insurer or an operator of the self-insured vehicle the amounts paid under subsection (1)(c) of this section.

(3) Nothing in this section requires a self-insurer to provide liability coverage when a person is operating the vehicle without permission of the self-insurer. [1983 c.338 §849; 1985 c.16 §430; 2007 c.287 §1]

806.140 Certificate; issuance; cancellation. (1) The Department of Transportation shall issue a certificate of self-insurance for purposes of financial responsibility requirements under ORS 806.060 and future responsibility filings under ORS 806.240 to any person who qualifies under ORS 806.130.

(2) The department may cancel a certificate of self-insurance issued under this section upon reasonable grounds. Failure to pay any judgment described under ORS 806.040 within 30 days after it has become final constitutes reasonable grounds for cancellation under this subsection. The department shall give not less than five days' notice and a hearing pursuant to such notice before the department may cancel under this subsection. [1983 c.338 §850]

ENFORCEMENT

806.150 Department verification program; rules. The Department of Transportation shall establish by rule a program to verify compliance with the financial responsibility requirements of operating a motor vehicle in this state. The program established under this section shall comply with all of the following:

(1) The department may select vehicles registered in this state for verification when the department considers the selection necessary or appropriate. The department may emphasize verification of vehicles registered to individuals who:

(a) Have been convicted of violating ORS 806.010;

(b) Have provided proof of compliance with financial responsibility requirements that has been previously found to be not correct; or

(c) The department has reasonable grounds to believe are not in compliance with financial responsibility requirements.

(2) When a vehicle is selected for verification under this section, the department shall provide a notice of verification to the registered owner of the vehicle. The notice of verification must:

(a) Inform the owner that the vehicle has been selected for verification; and

(b) Require the owner to provide proof of compliance with financial responsibility requirements within the time specified by the department by rule.

(3) After the department receives proof of compliance from a registered owner as required under subsection (2) of this section, the department shall forward the proof of compliance to the listed insurer, or use other means, to determine whether the proof of compliance is correct. An insurer shall notify the department if the proof of compliance is not correct within the time specified by the department by rule.

(4) Civil liability does not accrue to the insurer or any of its employees for reports made to the department under this section when the reports are made in good faith based on the most recent information available to the insurer. [1983 c.338 §851; 1985 c.16 §431; 1985 c.714 §2; 1987 c.158 §165; 1993 c.751 §29; 2005 c.142 §1; 2019 c.312 §1]

Note: The amendments to 806.150 by section 1, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, is set forth for the user's convenience.

806.150. The Department of Transportation shall provide a program of verification of compliance with financial responsibility requirements under ORS 803.460 and 806.010. The program established by the department under this section shall comply with all of the following:

(1) The verification shall be based on motor vehicles registered in this state.

(2) The department may select vehicles for verification when the department considers the selection necessary or appropriate. The department may emphasize, in accordance with rules adopted by the department, verification of vehicles registered to individuals who:

(a) Have been convicted of violating ORS 806.010;

(b) Have submitted certifications of compliance with financial responsibility requirements that have been previously found to be incorrect; or

(c) The department has reasonable grounds to believe are not in compliance with financial responsibility requirements.

(3) When a vehicle is selected for verification under this section, the department shall mail a letter and certification form described under ORS 806.180 to the registered owner of the vehicle notifying the owner that the vehicle has been selected for verification and requiring the owner to respond within 30 days and certify that the owner is in compliance with financial responsibility requirements as of the date of the letter. In addition, the department may seek verification by communicating directly with an insurer or its designee.

(4) Failure of an owner either to return the certification of compliance with financial responsibility requirements to the department within 30 days after mailing by the department or to certify compliance as of the date of the letter, or a determination by the department that a certification is not accurate constitutes reasonable grounds for the department to proceed with a demand for verification under ORS 806.160.

(5) The department shall investigate all certifications returned to the department under this section as follows:

(a) If the owner certifies the existence of insurance described under ORS 806.080, the department shall forward the certification to the listed insurer to determine whether the certification is correct. An insurer shall notify the department if the certification is not correct.

(b) The department may also determine the correctness of certifications of other means of satisfying financial responsibility requirements for the vehicle.

(6) No civil liability shall accrue to the insurer or any of its employees for reports made to the department under this section when the reports are made in good faith based on the most recent information available to the insurer.

Note: 806.160 was repealed by section 36, chapter 312, Oregon Laws 2019. The text of 806.150 that is operative until July 1, 2020, was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 806.150 for the repeal of 806.160 has not been made.

806.160 [1983 c.338 §852; 1985 c.714 §3; 2001 c.104 §300; 2009 c.257 §2; repealed by 2019 c.312 §36]

806.170 Department check on financial certification on accident reports. The Department of Transportation shall investigate all certifications of compliance with financial responsibility requirements made on reports of accidents under ORS 811.725 and 811.730. The department shall contact the insurers listed on the certifications to determine whether each certification is accurate. If the certification is not correct, an insurer shall notify the department no later than 60 days after receiving a request from the department for verification of the accuracy of the certification. [1983 c.338 §853; 2009 c.257 §3]

806.180 Information to be provided when certification of compliance required. A person who is required under ORS 803.460 or 811.725 to provide proof of compliance with financial responsibility requirements shall certify proof of compliance in a manner prescribed by the Department of Transportation by rule and shall provide any information that the department requires. [1983 c.338 §854; 1985 c.714 §4; 1987 c.158 §166; 1993 c.751 §30; 2003 c.364 §172; 2019 c.312 §3]

806.190 Insurance carrier report of person involved in accident who is in violation of ORS 806.010; civil liability. (1) Every insurance carrier that issues property and casualty insurance policies, as defined in ORS chapter 731, in this state shall report to the Department of Transportation any person the carrier has reason to believe is involved in an accident while the person is operating a vehicle in violation of ORS 806.010. The carrier shall make the report required by this section whether or not the accident:

(a) Is a reportable accident under ORS 811.720; or

(b) Occurred on a highway or on any other premises open to the public.

(2) An insurance carrier shall file the report no later than 60 days after the carrier first has reason to believe that a person was

involved in an accident while the person was operating a vehicle in violation of ORS 806.010.

(3) No civil liability shall accrue to an insurance carrier or any of its employees for reports made to the department under this section when the reports are made in good faith. [Formerly 486.097 and then 743.774; 2001 c.827 §6; 2003 c.364 §173; 2009 c.257 §4]

806.195 Information submitted by insurers; rules; use. (1) The Department of Transportation shall specify by rule:

(a) Any information that insurers shall submit to the department in addition to that specifically required by ORS 742.580.

(b) The form in which the information required by ORS 742.580 and by rules adopted under this section shall be submitted.

(2) Information submitted to the department in accordance with ORS 742.580 and with rules adopted under this section shall be:

(a) Entered into a computer system maintained by the department; and

(b) Made available to police officers in the most timely and efficient way possible. [1993 c.746 §6; 2001 c.104 §301]

FUTURE RESPONSIBILITY FILINGS

806.200 Failure to file after accident; penalty. (1) A person commits the offense of failure to make a future responsibility filing after an accident if:

(a) The person is the owner or driver of a motor vehicle involved in an accident;

(b) At the time of the accident the vehicle was operated in violation of ORS 806.010;

(c) The person does not make a future responsibility filing within 30 days after the accident; and

(d) The person is not exempt under ORS 806.210 from making a future responsibility filing.

(2) The employer of a driver is subject to the requirements and penalties under this section if the driver is an employee exempted from this section under ORS 806.210. If an employer is subject to this section, the registration of the employer's vehicles may be suspended as provided under ORS 809.050.

(3) In addition to any other penalties under this section, violation of this section subjects the violator to suspension of driving privileges as provided under ORS 809.415.

(4) The offense described in this section, failure to make a future responsibility filing after an accident, is a Class B traffic violation. [1983 c.338 §855; 1985 c.393 §63; 2003 c.402 §14; 2009 c.257 §5]

806.210 Exemption from requirement to file after accident. As appropriate, the driver or the owner, or both, are exempt from the requirement under ORS 806.200 to make a future responsibility filing if the person claiming exemption furnishes to the Department of Transportation proof of any of the following:

(1) At the time of the accident the driver was operating a vehicle owned by or leased to and operated under the direction of the United States of America, this state or any municipality or subdivision thereof.

(2) At the time of the accident the vehicle was lawfully parked.

(3) Such liability as may arise from the driver's operation of the vehicle involved in the accident was covered by some form of liability insurance which complies with the financial responsibility requirements.

(4) The owner of the vehicle involved in the accident was a self-insurer under ORS 806.130.

(5) The vehicle involved in the accident was being operated under a permit issued by the department under ORS chapter 825.

(6) At the time of the accident the owner's vehicle was being operated without the owner's permission, expressed or implied, or was parked by a person who had been operating such vehicle without the owner's permission unless the vehicle at the time of its taking had been left unattended in a condition prohibited by a regulation or ordinance designed to prevent the operation of vehicles by unauthorized persons. This subsection only exempts owners of vehicles who qualify.

(7) At the time of the accident, the driver was operating a vehicle owned, operated or leased by the driver's employer with the permission of that employer. This subsection only exempts drivers of vehicles. Owners remain subject as provided under ORS 806.200. [1983 c.338 §856; 1995 c.733 §87; 2003 c.175 §7]

806.220 Failure to file after failing verification; penalty. (1) A person commits the offense of failure to make future responsibility filing after failing verification if the person does not:

(a) Provide satisfactory proof of compliance with financial responsibility requirements within the time specified by the Department of Transportation by rule under ORS 806.150; and

(b) Within 60 days after the date the department sent the notice of verification under ORS 806.150, make a future responsibility filing.

(2) The offense described in this section, failure to make future responsibility filing

after failing verification, is a Class B traffic violation. [1983 c.338 §857; 1985 c.393 §64; 1985 c.714 §5; 2019 c.312 §4]

Note: The amendments to 806.220 by section 4, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, is set forth for the user's convenience.

806.220. (1) A person commits the offense of failure to make future responsibility filing after failing verification if the person:

(a) Is unable to provide satisfactory proof of compliance with financial responsibility requirements as of the date of the letter of verification from the Department of Transportation under ORS 806.150 upon the demand of the department under ORS 806.160 within the time required by that section; and

(b) Does not, within 60 days after the date of the mailing of the demand by the department under ORS 806.160, make a future responsibility filing.

(2) The offense described in this section, failure to make future responsibility filing after failing verification, is a Class B traffic violation.

Note: 806.160 was repealed by section 36, chapter 312, Oregon Laws 2019. The text of 806.220 that is operative until July 1, 2020, was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 806.220 for the repeal of 806.160 has not been made.

806.230 Failure of previous violator to file. (1) A person commits the offense of failure of a previous violator to make a future responsibility filing if the person is convicted of a violation of ORS 806.010 or 806.050 and the person does not make a future responsibility filing within 30 days after the conviction.

(2) In addition to any other penalties under this section, a violator of this section is subject to suspension of driving privileges under ORS 809.415.

(3) The offense described in this section, failure of a previous violator to make future responsibility filing, is a Class A traffic violation. [1983 c.338 §858; 1985 c.393 §65; 2003 c.402 §15]

806.240 Proof of compliance with future responsibility filing requirement; filing for another; failure of proof to meet requirements. Future responsibility filings required by ORS 806.200, 806.220 or 806.230 or by any other law of this state are subject to all of the following:

(1) Except as provided in subsection (3) of this section, the person required to make the filing must file with the Department of Transportation, or have filed with the department for the benefit of the person, proof of compliance that meets the requirements of this section and must maintain the proof of compliance as required under ORS 806.245. The filing is made on the date it is received by the department if it is received during regular business hours.

(2) The proof of compliance filed under subsection (1) of this section must be:

(a) A certificate or certificates of insurance that meet the requirements under ORS 806.270; or

(b) A valid certificate of self-insurance issued by the department under ORS 806.130.

(3) The owner of a motor vehicle may make a future responsibility filing under this section on behalf of the owner's employee or a member of the owner's immediate family or household in lieu of the filing being made by the person. Filing under this subsection permits the person on whose behalf the filing is made to operate only a motor vehicle covered by the proof of compliance given in the filing. The department shall endorse restrictions, as appropriate, on any license or driver permit the person holds as the department determines necessary to limit the person's ability to operate vehicles consistent with this subsection.

(4) Whenever proof of compliance filed under this section no longer meets the requirements of this section, the department shall require the furnishing of other proof of compliance for the future responsibility filing. If other proof of compliance is not furnished, the department shall suspend the driving privileges of the person as provided under ORS 809.415 or, if applicable, any registration as provided under ORS 809.050. [1983 c.338 §859; 1987 c.258 §2; 1995 c.41 §7; 2003 c.14 §466; 2003 c.175 §8; 2003 c.402 §16; 2009 c.257 §6; 2019 c.312 §5]

806.245 Termination of future responsibility filing requirement; reasons. A termination of the requirement to maintain a future responsibility filing does not remove a person's responsibility to comply with financial responsibility requirements. The Department of Transportation shall terminate requirements for a future responsibility filing when any of the following occurs:

(1) The person on whose behalf the filing was made dies.

(2) More than three years have passed from the date the filing was required.

(3) A person on whose behalf the filing was made requests termination and either:

(a) The person was required to file because of an error committed by the department; or

(b) The person was required to file because of an error committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150.

(4) A person who was required to file under ORS 806.150 requests termination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility require-

ments as of the date specified by the department by rule under ORS 806.150; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150.

(5) A person who was required to file because of failure to prove under ORS 806.210 that the person was in compliance with financial responsibility requirements requests termination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility requirements at the time of the accident; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements at the time of the accident.

(6) A person's hardship permit expires and the filing was required only for issuance of the hardship permit under ORS 807.240. [1987 c.258 §4; 2009 c.257 §7; 2019 c.312 §6]

Note: The amendments to 806.245 by section 6, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, is set forth for the user's convenience.

806.245. A termination of the requirement to maintain a future responsibility filing does not remove a person's responsibility to comply with financial responsibility requirements. The Department of Transportation shall terminate requirements for a future responsibility filing when any of the following occurs:

(1) The person on whose behalf the filing was made dies.

(2) More than three years have passed from the date the filing was required.

(3) A person on whose behalf the filing was made requests termination and either:

(a) The person was required to file because of an error committed by the department; or

(b) The person was required to file because of an error committed by an insurance company in notifying the department regarding the correctness of a certification under ORS 806.150.

(4) A person who was required to file because of failure to respond to a department demand under ORS 806.160 requests termination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the department's letter of verification.

(5) A person who was required to file because of failure to prove under ORS 806.210 that the person was in compliance with financial responsibility requirements requests termination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility requirements at the time of the accident; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements at the time of the accident.

(6) A person's hardship permit expires and the filing was required only for issuance of the hardship permit under ORS 807.240.

Note: 806.160 was repealed by section 36, chapter 312, Oregon Laws 2019. The text of 806.245 that is operative until July 1, 2020, was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 806.245 for the repeal of 806.160 has not been made.

806.250 [1983 c.338 §860; 1985 c.16 §432; 1985 c.714 §9; 1987 c.158 §167; 1987 c.258 §5; repealed by 2009 c.257 §11]

806.255 [1987 c.258 §7; repealed by 2009 c.257 §11]

806.260 [1983 c.338 §861; repealed by 2003 c.175 §1]

806.270 Certificate of insurance; requirements; presumption of completeness. (1) A certificate of insurance that is used to comply with future responsibility filing requirements under ORS 806.240 is subject to all of the following:

(a) Except as provided by ORS 806.280, the certificate must be issued by an insurance carrier doing business in this state.

(b) The certificate must show that the person required to make the future responsibility filing is covered by insurance that provides minimum coverage necessary for payment of the schedule of payments under ORS 806.070.

(c) The certificate must show that the person required to make the future responsibility filing is either:

(A) Insured by a policy meeting the requirements under ORS 806.080 that also covers all other persons who, with the consent of the insured, use the vehicles owned by the person making the filing; or

(B) Insured against loss arising from liabilities imposed by law for damages arising out of the ownership, operation, use or maintenance of motor vehicles not owned by the person required to make the filing.

(d) The certificate must:

(A) Include the effective date of the certification;

(B) Contain the policy number; and

(C) Describe all vehicles covered by the policy unless the policy is issued with respect to all vehicles operated by the insured.

(e) The certificate must provide that the insurers will give the Department of Transportation notice of any cancellation of the policy within 10 days after the effective date of the cancellation or termination. The notice requirement under this paragraph does not apply where the insurance is terminated under ORS 806.290.

(2) The certificate or certificates must cover all vehicles that are registered in the name of or operated by the person, except vehicles that are in storage and for which the current registration plates and cards have been surrendered to the department.

(3) Unless the department has reason to believe otherwise, the department may presume that the certificate covers all vehicles described in subsection (2) of this section.

(4) The requirements under this section may be fulfilled by the policies of one or more insurance carriers. [1983 c.338 §862; 1985 c.16 §433; 1993 c.751 §31; 1999 c.59 §239; 2003 c.174 §1; 2009 c.257 §8]

806.280 When certificate of insurer not authorized to do business in this state may be used. The Department of Transportation may not accept a certificate of insurance for purposes of future responsibility filings from an insurer that is not authorized to do business in Oregon unless the insurer is an eligible surplus lines insurer as defined in ORS 735.405 or a risk retention group as defined in ORS 735.305. [1983 c.338 §863; 2003 c.175 §9; 2009 c.257 §9]

806.290 Automatic termination of insurance under future responsibility filing upon subsequent filing. An insurance policy for which a certificate of insurance is filed to comply with future responsibility requirements is terminated with respect to any operator or vehicle designated in the certificate if the operator or vehicle is also covered by an insurance policy subsequently procured and certified to the Department of Transportation. The date of termination under this section is the date the subsequent certificate is filed with the department. [1983 c.338 §864]

806.300 Failure to surrender license and registration on cancellation of future responsibility filing; penalty. (1) A person commits the offense of failure to surrender license and registration on cancellation of future responsibility filing if the person does not immediately return the person's license or driver permit and registration to the Department of Transportation when any of the following occur:

(a) A policy of insurance required under ORS 806.240 is canceled or terminated.

(b) The person neglects to furnish other proof of compliance for a future responsibility filing upon request of the department.

(2) If any person fails to return to the department the license, driver permit or registration, the department may request any peace officer to secure possession thereof and return it to the department.

(3) The offense described in this section, failure to surrender license and registration on cancellation of future responsibility filing, is a Class C misdemeanor. [1983 c.338 §865; 1985 c.16 §434; 1985 c.393 §66; 2003 c.175 §10; 2019 c.312 §7]

Chapter 807

2019 EDITION

Driving Privileges and Identification Cards

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REQUIREMENT

807.010 Operating vehicle without driving privileges or in violation of license restrictions; penalty. (1) A person commits the offense of operating a vehicle without driving privileges if the person operates a motor vehicle upon a highway or premises open to the public in this state and the person does not have an appropriate grant of driving privileges from this state in the form of a license, driver permit, endorsement or statutory grant of driving privileges allowing the person to engage in the particular type of operation.

(2) A person to whom a license or driver permit is issued commits the offense of violating license restrictions if the person operates a motor vehicle in any manner that violates restrictions that are placed upon the person's driving privileges by the Department of Transportation under ORS 807.120 or 807.122, by a court under ORS 809.210 or 809.270, or by the vehicle code.

(3) Nothing in this section is applicable to a person who is driving while suspended or revoked in violation of ORS 811.175 or 811.182. Persons who violate ORS 811.175 or 811.182 are subject to the provisions and penalties provided therein and are not subject to the penalties and provisions of this section.

(4) Except as provided in subsection (5) of this section, the offense described in subsection (1) of this section, operating a vehicle without driving privileges, is a Class B traffic violation.

(5) The offense described in subsection (1) of this section, operating a vehicle without driving privileges, that results from a person operating a motorcycle without a motorcycle endorsement, is a Class A traffic violation.

(6)(a) The court shall suspend a fine imposed under subsection (5) of this section on the condition that the person, within 120 days of the date of sentencing:

(A) Complete a motorcycle education course established by the department under ORS 802.320; and

(B) Obtain a motorcycle endorsement issued under ORS 807.170.

(b) The court shall set a hearing date for 120 days from the date of sentencing. At the hearing the court shall:

(A) If the person has successfully completed the requirements described in paragraph (a)(A) and (B) of this subsection, dismiss the fine imposed under subsection (5) of this section; or

(B) If the person has not successfully completed the requirements described in paragraph (a)(A) and (B) of this subsection:

(i) Grant the person an extension based on good cause shown; or

(ii) Impose the fine under subsection (5) of this section.

(7) The offense described in subsection (2) of this section, operating in violation of license restrictions, is a Class B traffic violation. [1985 c.608 §5 (enacted in lieu of 1983 c. 338 §299); 1987 c.730 §10; 1999 c.328 §6; 2003 c.14 §467; 2009 c.482 §1]

STATUTORY PRIVILEGES

807.018 Persons considered to hold commercial driving privileges. A person holds commercial driving privileges for the purposes of the Oregon Vehicle Code if:

(1) The person has an unexpired commercial learner driver permit; or

(2) The person's most recently issued driver license is or was a commercial driver license issued by the Department of Transportation or the licensing agency of another jurisdiction, without regard to whether:

(a) The person's commercial driver license has expired; or

(b) The person's commercial driving privileges are suspended, canceled or revoked. [2013 c.237 §3; 2017 c.190 §13]

807.020 Exemptions from requirement to have Oregon license or permit. A person who is granted a driving privilege by this section may exercise the driving privilege described without violation of the requirements under ORS 807.010. A grant of driving privileges to operate a motor vehicle under this section is subject to suspension and revocation the same as other driving privileges granted under the vehicle code. This section is in addition to any exemptions from the vehicle code under ORS 801.026. The following persons are granted the described driving privileges:

(1) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person holds a current out-of-state license issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. To qualify under this subsection, the person must have the out-of-state license or driver permit in the person's possession. A person is not granted driving privileges under this subsection:

(a) If the person is under the minimum age required to be eligible for driving privileges under ORS 807.060;

(b) During a period of suspension or revocation by this state or any other jurisdic-

tion of driving privileges or of the right to apply for a license or driver permit issued by this state or any other jurisdiction; or

(c) That exceed the driving privileges granted to the person by the out-of-state license or driver permit.

(2) A person who is a member of the Armed Forces of the United States or a member of the commissioned corps of the National Oceanic and Atmospheric Administration may operate a motor vehicle without an Oregon license or driver permit if the person is operating a motor vehicle in the course of the person's duties in the Armed Forces or the National Oceanic and Atmospheric Administration.

(3) A person without a license or driver permit may operate a road roller or road machinery that is not required to be registered under the laws of this state.

(4) A person without a license or driver permit may temporarily operate, draw, move or propel a farm tractor or implement of husbandry.

(5) A person without a license or driver permit may operate a motor vehicle to demonstrate driving ability during the course of an examination administered under ORS 807.070 for the purpose of qualifying for a license or driver permit. This subsection only applies when an authorized examiner is in a seat beside the driver of the motor vehicle.

(6) Driving privileges for snowmobiles are exclusively as provided in ORS 821.150.

(7) Driving privileges for Class I all-terrain vehicles are exclusively as provided in ORS 821.170, unless a person is operating a Class I all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles.

(8) Driving privileges for Class III all-terrain vehicles are exclusively as provided in ORS 821.172, unless a person is operating a Class III all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the commission as open to all-terrain vehicles.

(9) Driving privileges for Class IV all-terrain vehicles are exclusively as provided in ORS 821.176, unless a person is operating a Class IV all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the commission as open to all-terrain vehicles.

(10) A person without a license or driver permit may operate a golf cart in accordance with an ordinance adopted under ORS 810.070.

(11) The spouse of a member of the Armed Forces of the United States on active duty or the spouse of a member of the commissioned corps of the National Oceanic and Atmospheric Administration who is accompanying the member on assignment in this state may operate a motor vehicle if the spouse has a current out-of-state license or driver permit issued to the spouse by another state in the spouse's possession.

(12) A person who is a member of the Armed Forces of the United States on active duty or a member of the commissioned corps of the National Oceanic and Atmospheric Administration may operate a motor vehicle if the person has a current out-of-state license or driver permit in the person's possession that is issued to the person by the person's state of domicile or by the Armed Forces of the United States in a foreign country. Driving privileges described under this subsection that are granted by the Armed Forces apply only for a period of 45 days from the time the person returns to the United States.

(13) A person who does not hold a motorcycle endorsement may operate a motorcycle if the person is:

(a) Within an enclosed cab;

(b) Operating a vehicle designed to travel with three wheels in contact with the ground at speeds of less than 15 miles per hour; or

(c) Operating an autocycle.

(14) A person may operate a bicycle that is not an electric assisted bicycle without any grant of driving privileges.

(15) A person may operate an electric assisted bicycle without a driver license or driver permit if the person is 16 years of age or older.

(16) A person may operate a motor assisted scooter without a driver license or driver permit if the person is 16 years of age or older.

(17) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person is at least 15 years of age and has in the person's possession a current out-of-state equivalent of a Class C instruction driver permit issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. A person operating a motor vehicle under authority of this subsection has the same privileges and is subject to the same restrictions as a person operating under the authority of a Class C instruction driver permit issued as provided in ORS 807.280.

(18) A person may operate an electric personal assistive mobility device without any grant of driving privileges if the person is 16 years of age or older. [1983 c.338 §300; 1985 c.16; 123; 1985 c.608 §13; 1987 c.217 §5; 1993 c.83 §1; 1995 c.774 §14; 1997 c.400 §6; 2001 c.749 §21; 2003 c.14 §468; 2003 c.341 §6; 2007 c.845 §3; 2009 c.395 §6; 2011 c.360 §16; 2017 c.296 §4; 2017 c.453 §9; 2018 c.76 §36]

ESTABLISHMENT OF IDENTITY

807.021 Proof of Social Security number; rules. (1) Except as provided in ORS 807.310 (5) and 807.405 (4), prior to issuing, renewing or replacing a driver license, driver permit or identification card that is not a Real ID, the Department of Transportation shall require a person to provide the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.

(2) For the purposes of subsection (1) of this section:

(a) A person provides proof of legal presence in the United States by submitting valid documentation, as defined by the department by rule, that the person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States in accordance with federal immigration laws.

(b) A member of a federally recognized tribe located in Oregon or with an Oregon affiliation may submit a tribal identification card as proof of legal presence in the United States if the department determines that the procedures used in issuing the card are sufficient to prove that a member is legally present in the United States.

(c) If a person is not eligible for a Social Security number, the person shall provide proof, as defined by the department by rule, that the person is not eligible for a Social Security number.

(3) The department may issue, renew or replace a driver license, driver permit or identification card that is not a Real ID for an applicant who has submitted a Social Security number only after the department verifies the Social Security number with the United States Social Security Administration. In order to verify the person's Social Security number, the department may require the person to provide proof, as defined by rule, of the person's Social Security number.

(4) This section does not apply if the department previously verified the Social Security number as required by subsection (3) of this section and the person applying for the driver license, driver permit or identification card is a citizen or permanent legal resident of the United States. [2008 c.1 §2; 2011 c.282 §1; 2017 c.568 §11]

Note 1: The amendments to 807.021 by section 11, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.021. (1) Except as provided in ORS 807.310 (5) and 807.405 (4), prior to issuing, renewing or replacing any driver license, driver permit or identification card, the Department of Transportation shall require a person to provide the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.

(2) For the purposes of subsection (1) of this section:

(a) A person provides proof of legal presence in the United States by submitting valid documentation, as defined by the department by rule, that the person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States in accordance with federal immigration laws.

(b) A member of a federally recognized tribe located in Oregon or with an Oregon affiliation may submit a tribal identification card as proof of legal presence in the United States if the department determines that the procedures used in issuing the card are sufficient to prove that a member is legally present in the United States.

(c) If a person is not eligible for a Social Security number, the person shall provide proof, as defined by the department by rule, that the person is not eligible for a Social Security number.

(3) The department may issue, renew or replace a driver license, driver permit or identification card for an applicant who has submitted a Social Security number only after the department verifies the Social Security number with the United States Social Security Administration. In order to verify the person's Social Security number, the department may require the person to provide proof, as defined by rule, of the person's Social Security number.

(4) This section does not apply if the department previously verified the Social Security number as required by subsection (3) of this section and the person applying for the driver license, driver permit or identification card is a citizen or permanent legal resident of the United States.

Note 2: The amendments to 807.021 by section 2, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.021. (1) Before issuing, renewing or replacing a driver license, driver permit or identification card, the Department of Transportation shall require a person to provide the Social Security number assigned to the person by the United States Social Security Administration or a written statement that the person has not been assigned a Social Security number.

(2) The department may issue, renew or replace a driver license, driver permit or identification card for an applicant who has submitted a Social Security number only after the department verifies the Social Secu-

rity number with the United States Social Security Administration. In order to verify the person's Social Security number, the department may require the person to provide proof, as defined by rule, of the person's Social Security number.

(3) This section does not apply if the department previously verified the Social Security number as required by subsection (2) of this section.

(4) As used in this section, a "driver license," "driver permit" or "identification card" means a driver license, driver permit or identification card that is not a:

(a) Real ID;

(b) Commercial driver license; or

(c) Commercial learner driver permit.

807.022 Verification of identity source documents. (1) Before issuing, renewing or replacing a driver license, driver permit or identification card, the Department of Transportation may verify with the issuing agency the validity and completeness of each identity source document presented by the applicant.

(2) The department may require a person who holds a driver license, driver permit or identification card issued by this state who previously presented an identity source document that was not retained by the department as a digital image to present an identity source document for the purpose of capturing and retaining a digital copy of the identity source document. This subsection applies only to a person who elects to hold a Real ID. [2008 c.1 §7; 2017 c.568 §12]

Note: The amendments to 807.022 by section 12, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.022. Prior to issuing, renewing or replacing a driver license, driver permit or identification card, the Department of Transportation may verify with the issuing agency the validity and completeness of each identity source document presented by the applicant.

807.024 Collection of biometric data; establishment of person's identity; rules; immunity. (1) A person who applies for issuance, renewal or replacement of a driver license, driver permit or identification card shall submit to collection of biometric data by the Department of Transportation for the purpose of establishing the person's identity. Submitting to collection of biometric data under this section does not excuse a person from responsibility for complying with requirements for proof of identity, date of birth or address pursuant to ORS 807.040.

(2) Notwithstanding subsection (1) of this section and ORS 807.040 (1)(c), the department, by rule, may provide for issuance, renewal or replacement of a valid driver license or driver permit without the collection of biometric data.

(3) For purposes of this section, a person's identity is established if:

(a) The department finds that the biometric data collected as required under subsection (1) of this section match the biometric data that are already in the department's records for that person; or

(b) The department finds that the biometric data collected as required under subsection (1) of this section do not match biometric data in the department's records for any other person and the department does not otherwise have reason to believe that the person is not who the person claims to be.

(4) If a person's identity is established as described in subsection (3) of this section, the department shall mail the driver license, driver permit or identification card to the address provided by the person when the person applied for the issuance, renewal or replacement of the license, permit or identification card.

(5) If a person's identity is not established as described in subsection (3) of this section, the department shall:

(a) Inform the person who submitted to collection of biometric data that the person's identity was not established; and

(b) Provide the person with the opportunity to establish the person's identity by an alternative method approved by the department by rule.

(6) If a person's identity was not established as described in subsection (3) of this section and the department has reason to believe that the crime of identity theft, as described in ORS 165.800, was committed by the person currently submitting to collection of biometric data or by a person who previously submitted to collection of biometric data under the identity of the person currently submitting to collection of biometric data, the department shall notify a law enforcement agency that has jurisdiction over the crime.

(7) The department by rule shall establish procedures for providing expedited processing of driver licenses, driver permits or identification cards.

(8) The department and employees of the department are immune from liability for any damages resulting from the issuance, renewal or replacement of a driver license, driver permit or identification card under another person's identity if the employee who processed the biometric data for a license, permit or identification card established the applicant's identity as described in subsection (3) of this section. [2005 c.775 §3; 2008 c.1 §14; 2017 c.568 §13]

Note: The amendments to 807.024 by section 13, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.024. (1) A person who applies for issuance, renewal or replacement of a driver license, driver permit or identification card shall submit to collection of biometric data by the Department of Transportation for the purpose of establishing the person's identity. Submitting to collection of biometric data under this section does not excuse a person from responsibility for complying with requirements for proof of identity, age or residence pursuant to ORS 807.050.

(2) Notwithstanding subsection (1) of this section and ORS 807.040 (1)(c), the department, by rule, may provide for issuance, renewal or replacement of a valid driver license or driver permit without the collection of biometric data.

(3) For purposes of this section, a person's identity is established if:

(a) The department finds that the biometric data collected as required under subsection (1) of this section match the biometric data that are already in the department's records for that person; or

(b) The department finds that the biometric data collected as required under subsection (1) of this section do not match biometric data in the department's records for any other person and the department does not otherwise have reason to believe that the person is not who the person claims to be.

(4) If a person's identity is established as described in subsection (3) of this section, the department shall mail the driver license, driver permit or identification card to the address provided by the person when the person applied for the issuance, renewal or replacement of the license, permit or identification card.

(5) If a person's identity is not established as described in subsection (3) of this section, the department shall:

(a) Inform the person who submitted to collection of biometric data that the person's identity was not established; and

(b) Provide the person with the opportunity to establish the person's identity by an alternative method approved by the department by rule.

(6) If a person's identity was not established as described in subsection (3) of this section and the department has reason to believe that the crime of identity theft, as described in ORS 165.800, was committed by the person currently submitting to collection of biometric data or by a person who previously submitted to collection of biometric data under the identity of the person currently submitting to collection of biometric data, the department shall notify a law enforcement agency that has jurisdiction over the crime.

(7) The department by rule shall establish procedures for providing expedited processing of driver licenses, driver permits or identification cards.

(8) The department and employees of the department are immune from liability for any damages resulting from the issuance, renewal or replacement of a driver license, driver permit or identification card under another person's identity if the employee who processed the biometric data for a license, permit or identification card established the applicant's identity as described in subsection (3) of this section.

807.026 Management of biometric data. (1) The Department of Transportation shall retain biometric data collected by the department in the course of issuing, renewing or replacing driver licenses, driver permits and identification cards.

(2) The biometric data may not be made available to anyone other than employees of the department acting in an official capacity. [2005 c.775 §4]

807.030 [1985 c.608 §8; 1987 c.744 §1; repealed by 1989 c.636 §54]

LICENSES, ENDORSEMENTS AND PERMITS

(Licenses)

807.031 Classes of license. The following licenses grant the driving privileges described:

(1) A Class A commercial driver license authorizes a person to operate any vehicle or combination of vehicles except that the person may not operate any vehicle for which an endorsement is required unless the person obtains the endorsement.

(2) A Class B commercial driver license authorizes a person to operate any single vehicle and to tow a vehicle that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that does not exceed 10,000 pounds. The person may not operate any vehicle for which an endorsement is required unless the person obtains the endorsement.

(3) A Class C commercial driver license authorizes a person to operate:

(a) Any vehicle that is designed to transport 16 or more persons, including the driver, if the gross vehicle weight rating or gross vehicle weight, whichever is greater, of the vehicle is less than 26,001 pounds and the person has the proper endorsement to operate a vehicle described in this paragraph; and

(b) Any vehicle that is used in the transportation of hazardous materials if the gross vehicle weight rating or gross vehicle weight, whichever is greater, of the vehicle is less than 26,001 pounds and the person has the proper endorsement.

(4) A commercial driver license authorizes a person to operate any vehicle that may be operated by the holder of a Class C license.

(5) A Class C driver license authorizes a person to operate any vehicle for which a commercial driver license is not required except that the person may not operate any vehicle for which an endorsement is required unless the person obtains the endorsement.

(6) A restricted Class C license authorizes a person to operate a vehicle under one of the permits described in ORS 807.200 as constituting a restricted Class C license. The person may not operate any vehicle for which an endorsement is required or be granted any endorsements for the license. [1989 c.636 §12; 2003 c.14 §469; 2005 c.649 §3; 2009 c.395 §7; 2011 c.470 §6; 2015 c.716 §4; 2017 c.190 §7]

807.032 [1989 c.636 §12a; repealed by 1997 c.83 §1]

807.035 Kinds of endorsements. This section describes the type of driving privileges granted by various endorsements issued by this state. Except as provided in ORS 807.285, the following endorsements grant the driving privileges described:

(1) A motorcycle endorsement authorizes a person to operate any motorcycle.

(2) A hazardous materials endorsement authorizes a person to operate a vehicle transporting hazardous materials.

(3) A tank vehicle endorsement authorizes a person to operate tank vehicles.

(4)(a) Except as provided in paragraph (b) of this subsection, a passenger endorsement authorizes a person to operate a vehicle:

(A) Described in ORS 801.208 (1)(a) or (b) that is designed to transport passengers in commerce; or

(B) Described in ORS 801.208 (1)(c).

(b) A passenger endorsement does not authorize a person to operate a school bus.

(5) A school bus endorsement authorizes a person to operate a school bus if the person also holds a valid passenger endorsement.

(6) A double and triple trailer endorsement authorizes a person to operate a commercial motor vehicle with double and triple trailer combinations.

(7) A combined endorsement authorizes a person to operate a tank vehicle, transport hazardous materials and transport hazardous materials in a tank vehicle.

(8) A Class A farm endorsement authorizes a person to:

(a) Operate or tow any vehicle that can be operated by the holder of a Class A commercial driver license if the vehicle is:

(A) Controlled or operated by a farmer;

(B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;

(C) Not used in the operation of a common or contract motor carrier; and

(D) Used within 150 miles of the farmer's farm.

(b) Operate any vehicle described in paragraph (a) of this subsection that is transporting hazardous materials if the vehicle is placarded in accordance with law.

(c) Operate any vehicle described in paragraph (a) of this subsection that is a tank vehicle or a double trailer combination without holding a tank vehicle endorsement or a double and triple trailer endorsement.

(9) A Class B farm endorsement authorizes a person to:

(a) Operate or tow any vehicle that can be operated or towed by the holder of a Class B commercial driver license if the vehicle is:

(A) Controlled or operated by a farmer;

(B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;

(C) Not used in the operation of a common or contract motor carrier; and

(D) Used within 150 miles of the farmer's farm.

(b) Operate any vehicle described in paragraph (a) of this subsection that is transporting hazardous materials if the vehicle is placarded in accordance with law.

(c) Operate any vehicle described in paragraph (a) of this subsection that is a tank vehicle without holding a tank vehicle endorsement. [1989 c.636 §13; 1991 c.185 §3; 1993 c.288 §1; 2003 c.14 §470; 2005 c.649 §1; 2007 c.122 §8; 2013 c.237 §37; 2017 c.190 §3]

807.036 Exceptions to endorsement requirement for tow vehicle operator. Notwithstanding any other provision of law, the operator of a tow vehicle is not required to have an endorsement for towing a disabled vehicle that can be operated only by a person with an endorsement if the towing operation is the first move of the disabled vehicle and is performed as an emergency service or if the move is a subsequent move of an empty vehicle that requires a passenger endorsement or a school bus endorsement for operation. [1989 c.636 §13a; 1991 c.185 §4; 2003 c.14 §471; 2005 c.649 §4]

807.038 School bus endorsement exception. Notwithstanding any other provision of law, a school bus manufacturer, school bus dealer or school bus mechanic is not required to have a school bus endorsement while operating a school bus that is not transporting students. [2007 c.122 §2]

807.040 Requirements for issuance; rules; fees. (1) The Department of Transportation shall issue a driver license to any person who complies with all of the following requirements:

(a) The person must complete an application for a license under ORS 807.050.

(b) As required by ORS 807.021 and 807.730, the person must provide the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.

(c) The person must submit to collection of biometric data by the department that es-

tablish the identity of the person as described in ORS 807.024.

(d) The person must not be ineligible for the license under ORS 807.060 and must be eligible for the license under ORS 807.062.

(e) The person must successfully pass all examination requirements under ORS 807.070 for the class of license sought.

(f) The person must pay the appropriate license fee under ORS 807.370 for the class of license sought.

(g) The person must pay the Student Driver Training Fund eligibility fee.

(h) If the application is for a commercial driver license, the person must be the holder of a Class C license or any higher class of license.

(i) If the application is for a commercial driver license, the department must have received and recorded, in a form approved by the department, the report of a medical examination that establishes that the person meets the medical requirements to operate a commercial motor vehicle. The department, by rule, shall establish medical requirements for purposes of this paragraph. The medical requirements established under this paragraph may include any requirements the department determines are necessary for the safe operation of vehicles permitted to be operated under the class of license for which the requirements are established.

(j) If the application is for a commercial driver license, the person must:

(A) Have at least one year's driving experience, including relevant experience obtained in the military;

(B) Not be subject to a lifetime suspension of commercial driving privileges under ORS 809.520;

(C) Not be otherwise ineligible to hold a commercial driver license;

(D) Hold a commercial learner driver permit if the person must complete a skills demonstration under ORS 807.070 (3); and

(E) In addition to meeting the requirement of providing proof of legal presence under ORS 807.021 and this section, the person must submit valid documentation, as defined by the department by rule, that the person is a citizen or permanent legal resident of the United States or is a citizen of a country with a Compact of Free Association with the United States.

(k) The person must present acceptable documents to prove identity, date of birth and address. The department shall determine by rule which documents are acceptable to prove identity, date of birth and address.

(L) If the application is for a Real ID, the person must comply with the requirements under the vehicle code for issuance of Real IDs.

(2) Subsection (1)(j)(E) of this section does not apply to a limited term commercial driver license or a limited term commercial learner driver permit issued under ORS 807.730.

(3) The department shall work with other agencies and organizations to attempt to improve the issuance system for driver licenses. [1983 c.338 §301; 1985 c.16 §124; 1985 c.182 §2; 1985 c.608 §14a; 1989 c.636 §16; 1991 c.709 §1; 1993 c.751 §34; 2001 c.668 §8; 2005 c.22 §515; 2005 c.649 §15; 2005 c.775 §6; 2008 c.1 §§9,10; 2011 c.282 §2; 2012 c.43 §30; 2013 c.237 §38; 2017 c.190 §5; 2017 c.306 §4; 2017 c.568 §14]

Note 1: The amendments to 807.040 by section 14, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.040. (1) The Department of Transportation shall issue a driver license to any person who complies with all of the following requirements:

(a) The person must complete an application for a license under ORS 807.050.

(b) As required by ORS 807.021 and 807.730, the person must provide the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.

(c) The person must submit to collection of biometric data by the department that establish the identity of the person as described in ORS 807.024.

(d) The person must not be ineligible for the license under ORS 807.060 and must be eligible for the license under ORS 807.062.

(e) The person must successfully pass all examination requirements under ORS 807.070 for the class of license sought.

(f) The person must pay the appropriate license fee under ORS 807.370 for the class of license sought.

(g) The person must pay the Student Driver Training Fund eligibility fee.

(h) If the application is for a commercial driver license, the person must be the holder of a Class C license or any higher class of license.

(i) If the application is for a commercial driver license, the department must have received and recorded, in a form approved by the department, the report of a medical examination that establishes that the person meets the medical requirements to operate a commercial motor vehicle. The department, by rule, shall establish medical requirements for purposes of this paragraph. The medical requirements established under this paragraph may include any requirements the department determines are necessary for the safe operation of vehicles permitted to be operated under the class of license for which the requirements are established.

(j) If the application is for a commercial driver license, the person must:

(A) Have at least one year's driving experience, including relevant experience obtained in the military;

(B) Not be subject to a lifetime suspension of commercial driving privileges under ORS 809.520;

(C) Not be otherwise ineligible to hold a commercial driver license;

(D) Hold a commercial learner driver permit if the person must complete a skills demonstration under ORS 807.070 (3); and

(E) In addition to meeting the requirement of providing proof of legal presence under ORS 807.021 and this section, the person must submit valid documentation, as defined by the department by rule, that the person is a citizen or permanent legal resident of the United States or is a citizen of a country with a Compact of Free Association with the United States.

(2) Subsection (1)(j)(E) of this section does not apply to a limited term commercial driver license or a limited term commercial learner driver permit issued under ORS 807.730.

(3) The department shall work with other agencies and organizations to attempt to improve the issuance system for driver licenses.

Note 2: The amendments to 807.040 by section 4, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.040. (1) The Department of Transportation shall issue a driver license to any person who complies with all of the following requirements:

(a) The person must complete an application for a license under ORS 807.050.

(b)(A) As required by ORS 807.021, a person applying for a driver license or driver permit must provide the Social Security number assigned to the person by the United States Social Security Administration or a written statement that the person has not been assigned a Social Security number.

(B) As used in this paragraph, a "driver license" or "driver permit" means a driver license or driver permit that is not a:

(i) Real ID;

(ii) Commercial driver license; or

(iii) Commercial learner driver permit.

(c) The person must submit to collection of biometric data by the department that establish the identity of the person as described in ORS 807.024.

(d) The person must not be ineligible for the license under ORS 807.060 and must be eligible for the license under ORS 807.062.

(e) The person must successfully pass all examination requirements under ORS 807.070 for the class of license sought.

(f) The person must pay the appropriate license fee under ORS 807.370 for the class of license sought.

(g) The person must pay the Student Driver Training Fund eligibility fee.

(h) If the application is for a commercial driver license, the person must be the holder of a Class C license or any higher class of license.

(i) If the application is for a commercial driver license, the department must have received and recorded, in a form approved by the department, the report of a medical examination that establishes that the person meets the medical requirements to operate a commercial motor vehicle. The department, by rule, shall establish medical requirements for purposes of this paragraph. The medical requirements established under this paragraph may include any requirements the department determines are necessary for the safe operation of vehicles permitted to be operated under the class of license for which the requirements are established.

(j) If the application is for a Real ID commercial driver license or a commercial driver license that is not a Real ID, the person must:

(A) Have at least one year's driving experience, including relevant experience obtained in the military;

(B) Not be subject to a lifetime suspension of commercial driving privileges under ORS 809.520;

(C) Not be otherwise ineligible to hold a commercial driver license;

(D) Hold a commercial learner driver permit if the person must complete a skills demonstration under ORS 807.070 (3);

(E) Submit valid documentation, as defined by the department by rule, that the person is a citizen or lawful permanent resident of the United States or is a citizen of a country with a Compact of Free Association with the United States; and

(F) Provide the Social Security number assigned to the person by the United States Social Security Administration for verification by the department with the administration.

(k) The person must present acceptable documents to prove identity, date of birth and address. The department shall determine by rule which documents are acceptable to prove identity, date of birth and address.

(L) If the application is for a Real ID, the person must comply with the requirements under the vehicle code for issuance of Real IDs.

(2) Except as provided in subsection (3) of this section, acceptable documents to prove identity, date of birth or address under subsection (1)(k) of this section when a person is applying for a driver license, driver permit or identification card that is not a Real ID, a commercial driver license, or a commercial learner driver permit, include but are not limited to the following:

(a) An unexpired valid passport from the person's country of citizenship;

(b) An unexpired valid consular identification document issued by the consulate of the person's country of citizenship, if the department determines that the procedure used in issuing the consular identification document is sufficient to prove the person's identity;

(c) A driver license, driver permit or identification card issued by this state that expired not more than 13 years from the date of the current application; or

(d) A driver license, driver permit or identification card issued by another state that:

(A) Is unexpired; or

(B) Expired not more than one year from the date of the current application.

(3) The department may refuse to accept any document described in subsection (2) of this section that is presented as proof of identity, date of birth or address, if the department has reason to believe that:

(a) The document is fraudulent, has been altered or does not belong to the person presenting the document; or

(b) The procedures used by the agency that issued the document are no longer sufficient for proving a person's identity or date of birth.

(4) Subsection (1)(j)(E) of this section does not apply to a limited term commercial driver license or a limited term commercial learner driver permit issued under ORS 807.730.

(5) The department shall work with other agencies and organizations to attempt to improve the issuance system for driver licenses.

807.045 Issuance of commercial license to person who holds out-of-state commercial license. (1) In order to be authorized to drive a commercial motor vehicle in this state, a person who holds a commercial driver license issued by a jurisdiction other than Oregon must, within 30 days of becoming domiciled in Oregon:

(a) Apply to the Department of Transportation for an Oregon commercial driver license;

(b) Certify to the department that the person's current commercial driver license is not subject to any disqualification, suspension, revocation or cancellation and that the person does not have a commercial driver license from more than one jurisdiction; and

(c) Surrender any commercial driver license issued to the person by another jurisdiction.

(2) The department shall issue a commercial driver license to a person who complies with subsection (1) of this section if the department determines that the person is all of the following:

(a) Eligible for a commercial driver license. In order to determine eligibility under this paragraph, the department may require from the person any additional information that the department determines necessary and may require the person to pass any examinations, tests or demonstrations that the department determines necessary.

(b) Not subject to a lifetime suspension of commercial driving privileges under ORS 809.520.

(c) Not otherwise ineligible for a commercial driver license.

(3) For purposes of this section, a person is domiciled in this state if the person meets the criteria described in ORS 803.355. [1989 c.636 §14; 2005 c.649 §16; 2013 c.237 §39]

807.050 Application; proof of address; rules. An application for a driver license shall be in a form approved by the Department of Transportation. An application must contain all the following:

(1) The applicant's full legal name, sex, date of birth, residence address, except as otherwise provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, and post-office address other than general delivery. The department may provide by rule for acceptance of something other than an actual residence or post-office address if the department determines that the applicant does not have an actual address. The department shall require proof to verify the address in addition to anything else the department may require of the applicant. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system.

(2) The class of driver license sought.

(3) The Social Security number of the applicant or other number or identifying information determined appropriate by the Secretary of the United States Department of Transportation, if the application is for a commercial driver license or a commercial learner driver permit or if the Oregon Department of Transportation by rule requires the Social Security number on the application.

(4) Whether or not the applicant wants to make an anatomical gift, as defined in ORS 97.953.

(5) Any other information the department deems necessary to assist the department in determining whether the applicant is qualified or eligible to be licensed.

(6) The signature of the applicant. [1983 c.338 §302; 1985 c.16 §125; 1985 c.563 §5; 1985 c.597 §7; 1985 c.608 §15; 1989 c.636 §17; 1991 c.67 §216; 1991 c.523 §5; 1993 c.751 §35; 2005 c.292 §6; 2007 c.542 §7; 2008 c.1 §11; 2011 c.86 §1; 2013 c.237 §40; 2015 c.716 §§6,7; 2017 c.306 §2; 2017 c.568 §15]

Note: The amendments to 807.050 by section 15, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.050. An application for a license shall be in a form approved by the Oregon Department of Transportation. An application must contain all the following:

(1) The applicant's full legal name, age, sex, residence address, except as otherwise provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, and post-office address other than general delivery. The department may provide by rule for acceptance of something other than an actual residence or post-office address if the department determines that the applicant does not have an actual address. The department shall require proof to verify the address in addition to anything else the department may require of the applicant. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Verification of proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to

display proof of address, or provide proof through the use of a third party address verification system.

(2) The class of license sought.

(3) The Social Security number of the applicant or other number or identifying information determined appropriate by the Secretary of the United States Department of Transportation, if the application is for a commercial driver license or a commercial learner driver permit or if the Oregon Department of Transportation by rule requires the Social Security number on the application.

(4) Whether or not the applicant wants to make an anatomical gift, as defined in ORS 97.953.

(5) Any other information the department deems necessary to assist the department in determining whether the applicant is qualified or eligible to be licensed.

807.060 Eligibility. The Department of Transportation may not grant driving privileges to a person under a license if the person is not eligible under this section. The following are not eligible for a license:

(1) A person under 16 years of age.

(2)(a) A person under 18 years of age who is not an emancipated minor, unless the application of the person is signed by the person's mother, father or legal guardian. A person who signs an application under this paragraph may have the driving privileges canceled as provided under ORS 809.320.

(b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

(3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible for a commercial driver license.

(4) A person the department determines has a problem condition involving alcohol, cannabis, controlled substances or inhalants as described under ORS 813.040.

(5) A person the department reasonably believes has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.

(6) A person the department reasonably believes is unable to understand highway signs that warn, regulate or direct traffic.

(7) A person who is required to make future responsibility filings but has not made filings as required.

(8) A person who cannot be issued a license under the Driver License Compact under ORS 802.540.

(9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose driving privileges are currently under suspension or revocation in any other state upon grounds which, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person.

(10) A person who has been declared a habitual offender under ORS 809.640. A person declared not eligible to be licensed under this subsection may become eligible by having eligibility restored under ORS 809.640.

(11) A person whose driving privileges are canceled in this state under ORS 809.310 until the person is eligible under ORS 809.310.

(12) A person while the person's driving privileges are revoked in this state.

(13) A person during a period when the person's driving privileges are suspended in this state.

(14) A person who holds a current out-of-state license or driver permit or a valid Oregon license or driver permit. A person who is not eligible under this subsection may become eligible by surrendering the license, driver permit or out-of-state license or driver permit to the department before issuance of the license. Nothing in this subsection authorizes a person to continue to operate a motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS 807.062 to obtain an Oregon license or permit.

(15) A person who has not complied with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530 authorizes the department to withhold issuance of a license.

(16) A person who has not complied with the requirement of ORS 813.022 (1). [1983 c.338 §303; 1985 c.16 §126; 1985 c.396 §7; 1985 c.597 §8; 1985 c.608 §16; 1985 c.669 §8; 1987 c.137 §2; 1989 c.224 §137; 1989 c.636 §18; 1989 c.715 §5; 1991 c.702 §22; 1991 c.802 §1; 1993 c.751 §36; 1999 c.328 §5; 1999 c.619 §5; 2001 c.176 §3; 2005 c.140 §1; 2005 c.143 §1; 2012 c.9 §§4,5; 2013 c.233 §§2,3; 2017 c.21 §75]

807.062 Domicile or residency requirement for driver license. (1) Unless otherwise specifically provided by law, in order to be eligible for a driver license or permit issued by this state a person must be domiciled in or resident of this state.

(2) Unless otherwise specifically provided by law, a person who is a resident of this state may not operate a motor vehicle in this state unless the person receives a driver license or permit from the Department of Transportation.

(3) For purposes of this section, "domicile" has the meaning given in ORS 803.355.

(4) For purposes of this section, a person is a resident of this state if the person engages in any gainful employment in this state or takes any action to indicate the acquiring of residence in this state. Action to acquire

residence includes, but is not limited to, doing any of the following:

(a) Remaining in this state for a consecutive period of six months or more regardless of the domicile of the person.

(b) Placing children in a public school without payment of nonresident tuition fees.

(c) Making a declaration to be a resident of this state for the purpose of obtaining, at resident rates, a state license or tuition fees at an educational institution maintained by public funds.

(5) Notwithstanding subsection (4) of this section, a person who is gainfully employed in this state shall not be considered a resident of the state if the person has taken no other steps to become a resident. This section applies, but is not limited to, a student at an educational institution maintained by public funds who is paying nonresident tuition rates. [1993 c.751 §33]

807.065 Additional eligibility requirements for persons under 18 years of age; provisional driver license. (1) The Department of Transportation may not issue a driver license to a person who is under 18 years of age unless the person:

(a) Complies with the requirements of ORS 807.040 and 807.066;

(b) Passes an examination designed to test the person's knowledge and understanding of safe driving practices, in addition to any examination required under ORS 807.070;

(c) Has had, for at least six months prior to application for the license, an instruction driver permit issued under ORS 807.280 or the equivalent of an instruction driver permit issued by another state of the United States or by the District of Columbia;

(d) Certifies to the department that the person has had at least 50 hours of driving experience during which the person was supervised by a person at least 21 years of age who has had a valid driver license for at least three years; and

(e) Completes a traffic safety education course that meets standards developed by the department under ORS 336.802. In lieu of completion of a traffic safety education course, a person may certify to the department that the person has had at least 50 hours of driving experience during which the person was supervised by a person at least 21 years of age who has had a valid driver license for at least three years, in addition to the 50 hours required by paragraph (d) of this subsection.

(2) A person under 18 years of age need not comply with the requirements of subsection (1)(c), (d) and (e) of this section if the person has been issued a driver license by another state and surrenders that license in order to get an Oregon license.

(3) If the person takes but does not pass a test that consists of an actual demonstration of driving ability under ORS 807.070, the department may not allow the person to perform the demonstration again until the person has had an instruction permit issued pursuant to ORS 807.280 for a period of not less than one month.

(4) A driver license issued pursuant to this section shall be a provisional driver license.

(5) The department shall prominently identify each driver license issued pursuant to this section as a provisional driver license. [1989 c.715 §2; 1993 c.751 §37; 1999 c.328 §1; 1999 c.789 §5; 2001 c.176 §4; 2003 c.92 §1]

807.066 School requirements for persons under 18 years of age. (1) Subject to subsection (2) of this section, the Department of Transportation may not issue driving privileges to a person who is under 18 years of age unless:

(a) The person has graduated from high school and provides the department with proof of graduation satisfactory to the department;

(b) The person has received a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, from a community college and provides the department with proof of the certificate satisfactory to the department; or

(c) The person's parent or legal guardian certifies that the person is:

(A) Enrolled in a school of this state, or any other state or any other country;

(B) Enrolled in a community college and making satisfactory progress toward a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, a high school diploma or a modified diploma;

(C) Being taught by a private teacher, legal guardian or parent in compliance with ORS 339.035;

(D) Exempted from school attendance requirements due to circumstances beyond the control of the person; or

(E) Exempt under ORS 339.030 (2) from the requirement to attend school.

(2) The department may not issue driving privileges to a person who is under 18 years of age and whose driving privileges are suspended under ORS 809.423 (2) for withdrawing from school unless the person:

(a) Has graduated from high school and provides the department with proof of graduation satisfactory to the department;

(b) Has received a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, from a community college and provides the department with proof of the certificate satisfactory to the department;

(c) Provides the department with a form provided by the department and signed by the principal, or the designee of the principal, of the school attended by the person that declares that the person is enrolled in a school of this state, or any other state or any other country;

(d) Provides the department with a form provided by the department and signed by the authorized representative of the community college attended by the person that declares that the person is making satisfactory progress toward a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test;

(e) Provides the department with a form provided by the department and signed by the authorized representative of the community college attended by the person that declares that the person is making satisfactory progress toward a high school diploma or a modified diploma;

(f) Provides the department with a form provided by the department and signed by the authorized representative of the education service district or school district having jurisdiction over the area of the person's residence that declares that the person is being taught by a private teacher, legal guardian or parent in compliance with ORS 339.035;

(g) Provides the department with documentation satisfactory to the department that indicates that the person is exempted from school attendance requirements due to circumstances beyond the control of the person; or

(h) Provides the department with documentation satisfactory to the department that the person is exempt under ORS 339.030 (2) from the requirement to attend school. [1999 c.789 §2; 2015 c.716 §2; 2017 c.66 §30; 2017 c.701 §24; 2017 c.726 §15]

Note: 809.423 was repealed by section 17, chapter 76, Oregon Laws 2018. The text of 807.066 was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 807.066 for the repeal of 809.423 has not been made.

807.070 Examinations. The Department of Transportation shall administer an examination to establish qualification for each class of license and endorsement. The examination for each class of license or endorsement must include all of the following as described:

(1) A test of the applicant's eyesight. This subsection does not apply to an applicant with a limited vision condition as defined in ORS 807.355.

(2) A test of the applicant's knowledge and understanding of the traffic laws of this state, safe driving practices and factors that cause accidents. The following all apply to the test under this subsection:

(a) The test may not cover any subject that is not presented in the publications of the department intended for the instruction of applicants for licenses and driver permits.

(b) The test for each class of license and endorsement must include, but is not limited to, a test of knowledge and understanding of traffic laws that relate specifically to the type of driving privileges granted under the specific class of license or endorsement sought.

(c) The test must include, but is not limited to, the following subjects:

(A) Rights of pedestrians who are blind.

(B) The meaning of official traffic signs and signals.

(C) Proper operating procedure in emergency situations.

(D) Vehicle safety equipment and its use.

(E) Practices necessary for safe operation of a vehicle around pedestrians and bicyclists.

(F) Practices necessary for safe operation of a vehicle around motorcyclists.

(d) The test must include at least two questions pertaining to the practices necessary for safe operation of a vehicle around motorcyclists.

(e) The test may include a question regarding fuel efficient driving techniques.

(f) The department may waive the test under circumstances described in ORS 807.072.

(3) A test that is an actual demonstration of the applicant's ability to operate a motor vehicle without endangering the safety of persons or property. The following apply to this subsection:

(a) The actual demonstration for each class of license shall be performed in a vehicle that may be operated under the class of license sought, but that may not be operated under lower classes of license.

(b) An actual demonstration for a passenger endorsement shall be performed in a vehicle that may be operated under the endorsement.

(c) An actual demonstration for a school bus endorsement shall be performed in a school bus.

(d) An actual demonstration required for a commercial driver license may be performed by a person only if the person has held for at least 14 days a commercial learner driver permit that was issued by the department or by another jurisdiction that authorizes operation of the vehicle used for testing.

(e) The department may waive the demonstration under circumstances described in ORS 807.072.

(4) Any other examination or test, including demonstrations, that the department determines may be necessary to assist the department in establishing whether the applicant is eligible for a license under ORS 807.060 or whether the applicant is fit to operate a motor vehicle safely on the highways of this state. In any examination or test under this subsection, the department shall only conduct an investigation for facts relating directly to the ability of the applicant to operate a motor vehicle safely or other facts that are specifically required to show the fitness of the applicant for license. [1983 c.338 §304; 1985 c.608 §17; 1989 c.636 §19; 1993 c.309 §1; 1997 c.83 §2; 1999 c.1051 §87; 2001 c.410 §1; 2003 c.14 §472; 2003 c.277 §§6,10; 2005 c.649 §§5,6; 2007 c.70 §§326,327; 2007 c.588 §3; 2007 c.677 §§1,2; 2009 c.810 §1; 2013 c.237 §41; 2017 c.190 §4]

807.072 Waiver of certain examinations, tests and demonstrations; rules. (1) The Department of Transportation, by rule, may waive any examination, test or demonstration required under ORS 807.065 (1)(b) or 807.070 (2) or (3) if the department receives satisfactory proof that the person required to take the examination, test or demonstration has passed an examination, test or demonstration approved by the department that:

(a) Is given in conjunction with a traffic safety education course certified by the department under ORS 336.802;

(b) Is given in conjunction with a motorcycle rider education course established under ORS 802.320;

(c) Is given in conjunction with a course conducted by a commercial driver training school certified by the department under ORS 822.515; or

(d) Is given in conjunction with an application for a special limited vision condition learner's permit under ORS 807.359.

(2) The department, by rule, may waive the actual demonstration required under ORS 807.070 (3) for a person who is applying for a commercial driver license or a Class C license if the person holds a valid out-of-state license or applies for an Oregon license within one year of the expiration of a valid out-of-state license. A demonstration may be waived under this subsection only if the person has applied for the same driving privileges as those granted under the person's out-of-state license or for privileges granted by a lower class of license.

(3) The department may waive the actual demonstration required under ORS 807.070 for a person who is applying for a commercial driver license, an endorsement related to a commercial driver license or the removal of a restriction from a commercial driver license:

(a) If the person has been certified, as defined by rule, under ORS 807.080 or a similar statute of another jurisdiction as competent to safely exercise the driving privileges granted by a Class A commercial driver license, a Class B commercial driver license or a Class C commercial driver license; or

(b) Under circumstances, established by the department by rule, that establish the person's ability to drive without an actual demonstration.

(4) The department may issue a Class A farm endorsement without requiring additional tests to a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to the department that the person is experienced in driving a vehicle that may be driven only by persons who have a Class A commercial driver license and the person's two-part driving record does not show either a traffic accident within two years of the date of application for the endorsement or a conviction for one of the following traffic crimes within five years of the date of application for the endorsement:

(a) Reckless driving, as defined in ORS 811.140.

(b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(c) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(d) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(5) The department may issue a Class B farm endorsement without requiring additional tests to a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to the department that the person is experienced in driving a vehicle that may be driven only by persons who have a Class B commercial driver license and the person's two-part driving record does not show either a conviction for a

traffic crime specified in subsection (4) of this section within five years of the date of application for the endorsement or a traffic accident within two years of the date of application for the endorsement.

(6) The department by rule may establish other circumstances under which a farm endorsement may be issued without an actual demonstration. The authority granted by this subsection includes, but is not limited to, authority to adopt rules specifying circumstances under which the endorsement may be granted to a person despite the appearance of traffic accidents on the person's record.

(7) The department by rule may waive the test required under ORS 807.070 (2) for a person who applies for a motorcycle endorsement if the person:

(a) Holds a valid out-of-state driver license that authorizes the person to operate a motorcycle; or

(b) Applies for a motorcycle endorsement within one year after the expiration date of a valid out-of-state driver license that authorizes the person to operate a motorcycle.

(8) The department by rule may waive the actual demonstration required under ORS 807.070 (3) for a person who is applying for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels. [2001 c.410 §3; 2003 c.14 §473; 2003 c.277 §§7,11; 2005 c.649 §§7,8; 2007 c.588 §4; 2015 c.716 §5; 2017 c.190 §12; 2017 c.306 §1; 2018 c.22 §6]

807.080 Driver competency testing certificates; waiver of demonstration test for persons certified; rules; fees. (1) The Department of Transportation, by rule, shall provide for the following in a manner consistent with this section:

(a) The issuance of driver competency testing certificates.

(b) The regulation of persons issued driver competency testing certificates.

(2) A person issued a driver competency testing certificate under this section may certify, in a manner established by the department, the competency of drivers to safely exercise driving privileges granted only under one or more of the following:

(a) A Class A commercial driver license.

(b) A Class B commercial driver license.

(c) A Class C commercial driver license.

(d) An endorsement related to a commercial driver license.

(3) The department may waive an actual demonstration of ability to operate a motor vehicle under ORS 807.070 for an applicant who is certified by the holder of a driver competency testing certificate as competent to exercise the driving privileges in the class of license or in the endorsement sought by the applicant.

(4) The rules adopted by the department under this section may establish reasonable fees for the issuance of a certificate or as part of any program of regulating certificate holders that is established by the department.

(5) When adopting rules under this section, the department may:

(a) Make the certificate renewable upon any basis determined convenient by the department and may include provisions for cancellation, revocation or suspension of certificates or for probation of certificate holders.

(b) Provide for the issuance of certifications allowing the holder to certify competency in several classes or types of driving privileges or limiting the classes or types of driving privileges for which the holder may certify competency.

(c) Establish the forms of certificates to be issued.

(d) Establish and require forms that are to be used by certificate holders in certifying competency.

(e) Establish any qualifications or requirements for obtaining a certificate that the department determines necessary to protect the interests of persons seeking certification by certificate holders.

(f) Issue certificates to publicly owned and operated educational facilities to allow programs for certification of competency.

(g) Issue certificates to employers to allow the employers to establish programs primarily for the certification of employees' competency. The department may provide that programs established under this paragraph may be operated without driver training school certificates under ORS 822.500 and without driver training instructor certificates under ORS 822.525.

(h) Establish any other provisions or requirements necessary to carry out the purposes of this section. [1985 c.608 §36; 1989 c.636 §20; 2005 c.649 §9]

807.090 Establishing eligibility notwithstanding mental or physical condition or impairment. (1) If the Department of Transportation determines that a person may be ineligible for a license because the person has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle, the person may establish eligibility for a license:

(a) By personally demonstrating to the satisfaction of the department that, notwithstanding the mental or physical condition or

impairment, the person is qualified to safely operate a motor vehicle; or

(b) If the department reasonably believes that, notwithstanding the demonstration under paragraph (a) of this subsection, the person's mental or physical condition or impairment affects the person's ability to safely operate a motor vehicle, by receiving a determination of eligibility from the medical determination officer of the department under this section.

(2) The medical determination officer shall determine that a person is eligible for a license under this section if an applicant establishes to the satisfaction of the officer that the person's mental or physical condition or impairment does not affect the person's ability to safely operate a motor vehicle. The medical determination officer shall use the following to determine the person's eligibility under this subsection:

(a) A report from the person's physician, nurse practitioner or physician assistant of the person's condition or impairment.

(b) If the person's condition or impairment apparently involves only visual deficiencies, the department may require a person to submit a report from a licensed optometrist or a licensed physician who specializes in diagnosis and treatment of diseases of the eye.

(c) The medical determination officer may require an examination and a written report of findings and recommendations from a qualified physician, nurse practitioner or physician assistant identified by the officer in addition to other reports submitted.

(3) If a person establishes eligibility for a license under this section by receiving a determination of eligibility, the department may require the person to reestablish eligibility at reasonable intervals. The frequency of reestablishing eligibility under this subsection shall be established by the medical determination officer after reviewing any recommendations from the physician, nurse practitioner or physician assistant of the person required to reestablish eligibility.

(4) The department may employ any qualified physician, nurse practitioner or physician assistant who holds an unrestricted license in the State of Oregon to perform the duties assigned to the medical determination officer by this section.

(5) As used in this section, "physician" means a person who holds a degree of Doctor of Medicine or Doctor of Osteopathic Medicine and is licensed under ORS 677.100 to 677.228 and a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under ORS chapter 685. [1983 c.338 §305; 1989 c.224 §138; 1993 c.309 §2; 1999 c.770 §1; 2005 c.140 §2; 2007 c.195 §1; 2007 c.434 §2; 2017 c.409 §40]

807.100 Proof of medical qualification; rules. (1) The Department of Transportation may not issue or renew commercial driving privileges and may cancel commercial driving privileges for a person if the department has not received and recorded, in the form approved by the department, proof of the person's medical qualification to operate a commercial motor vehicle by the date specified by the department.

(2) A person is entitled to administrative review under ORS 809.440 when the department does not issue or renew commercial driving privileges under this section or cancels commercial driving privileges under this section.

(3) The department shall adopt rules to carry out the provisions of this section. [1985 c.608 §8a; 1989 c.636 §21; 2011 c.470 §2; 2013 c.237 §42; 2015 c.138 §§43,44; 2017 c.190 §6]

807.110 Contents of license; rules. (1) A driver license issued by the Department of Transportation shall contain all of the following:

(a) The distinguishing number assigned to the person issued the driver license by the department.

(b) For the purpose of identification, a brief description of the person to whom the driver license is issued.

(c) The full legal name of the person to whom the driver license is issued, except that the department may limit the number of characters displayed on the driver license.

(d) The date of birth and sex of the person to whom the driver license is issued.

(e) Except as provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, the residence address of the person to whom the driver license is issued.

(f) Upon request of the person to whom the driver license is issued, the fact that the person is an anatomical donor.

(g) Upon request of the person to whom the driver license is issued and presentation of proof, as determined by the department, the fact that the person is a veteran, as defined in ORS 408.225.

(h) Upon order of the juvenile court, the fact that the person to whom the driver license is issued is an emancipated minor.

(i) Except as otherwise provided in subsection (2) of this section, a photograph described in this paragraph. A photograph required under this paragraph shall:

(A) Be a full-faced, color photograph of the person to whom the driver license is issued;

(B) Be of a size approved by the department; and

(C) Be taken at the time of application for issuance of the driver license whether the application is for an original driver license, replacement of a driver license under ORS 807.160 or renewal of a driver license under ORS 807.150, except that the department, by rule, may allow the applicant to use a photograph already on file with the department.

(j) The class of driver license issued and any endorsements granted.

(k) The signature of the person to whom the driver license is issued.

(L) If the driver license is not a Real ID, a design differentiating it from a Real ID.

(2) The department may issue a valid driver license, other than a commercial driver license, without a photograph to an applicant:

(a) Who objects on religious grounds;

(b) Who objects because of the applicant's facial disfigurement; or

(c) Who is stationed outside of this state while serving in the active military service in the Armed Forces of the United States or the National Guard, and the department does not have an acceptable photograph of the applicant, as determined by the department by rule. This paragraph applies to an applicant who is renewing or replacing a driver license.

(3) A limited term driver license or a limited term commercial driver license issued under ORS 807.730 shall indicate:

(a) That it is a limited term driver license; and

(b) The date on which the limited term driver license expires.

(4) The department shall use security procedures, processes and materials in the preparation, manufacture and issuance of any driver license that prohibit as nearly as possible anyone's ability to alter, counterfeit, duplicate or modify the driver license without ready detection. The security features used in the production of the driver licenses shall provide for:

(a) The authentication of a genuine document in a reasonable time; and

(b) The production of the driver license only by equipment that requires verification of the identity of the operator of the equipment before a driver license may be produced. [1983 c.338 §306; 1985 c.16 §127; 1985 c.563 §6; 1985 c.608 §18; 1989 c.636 §22; 1991 c.67 §217; 1991 c.523 §6; 1993 c.751 §39; 2003 c.14 §474; 2005 c.292 §7; 2005 c.775 §7; 2007 c.542 §§5,6; 2008 c.1 §§12,13; 2010 c.61 §1; 2015 c.455 §1; 2017 c.190 §11; 2017 c.306 §8; 2017 c.568 §16a]

Note: The amendments to 807.110 by section 16a, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.110. (1) A license issued by the Department of Transportation shall contain all of the following:

(a) The distinguishing number assigned to the person issued the license by the department.

(b) For the purpose of identification, a brief description of the person to whom the license is issued.

(c) The full legal name of the person to whom the license is issued, except that the department may limit the number of characters displayed on the license.

(d) The date of birth of the person to whom the license is issued.

(e) Except as provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, the residence address of the person to whom the license is issued.

(f) Upon request of the person to whom the license is issued, the fact that the person is an anatomical donor.

(g) Upon request of the person to whom the license is issued and presentation of proof, as determined by the department, the fact that the person is a veteran, as defined in ORS 408.225.

(h) Upon order of the juvenile court, the fact that the person to whom the license is issued is an emancipated minor.

(i) Except as otherwise provided in subsection (2) of this section, a photograph described in this paragraph. A photograph required under this paragraph shall:

(A) Be a full-faced, color photograph of the person to whom the license is issued;

(B) Be of a size approved by the department; and

(C) Be taken at the time of application for issuance of the license whether the application is for an original license, replacement of a license under ORS 807.160 or for renewal of a license under ORS 807.150, except that the department, by rule, may allow the applicant to use a photograph already on file with the department.

(j) The class of license issued and any endorsements granted.

(k) The signature of the person to whom the license is issued.

(2) The department may issue a valid license, other than a commercial driver license, without a photograph to an applicant:

(a) Who objects on religious grounds;

(b) Who objects because of the applicant's facial disfigurement; or

(c) Who is stationed outside of this state while serving in the active military service in the Armed Forces of the United States or the National Guard, and the department does not have an acceptable photograph of the applicant, as determined by the department by rule. This paragraph applies to an applicant who is renewing or replacing a license.

(3) A limited term driver license or a limited term commercial driver license issued under ORS 807.730 shall indicate:

(a) That it is a limited term driver license; and

(b) The date on which the limited term driver license expires.

(4) The department shall use security procedures, processes and materials in the preparation, manufacture and issuance of any license that prohibit as nearly as possible anyone's ability to alter, counterfeit, duplicate or modify the license without ready detection. The security features used in the production of the licenses shall provide for:

(a) The authentication of a genuine document in a reasonable time; and

(b) The production of the license only by equipment that requires verification of the identity of the operator of the equipment before a license may be produced.

807.115 Digital images of photographs and signatures. (1) The Department of Transportation shall retain a digital image of each photograph and signature shown on a driver license under the provisions of ORS 807.110 or an identification card under ORS 807.400.

(2) The digital images of photographs may not be made available to anyone other than law enforcement officials and employees of the department acting in an official capacity. [1989 c.902 §2; 2017 c.568 §17]

Note: The amendments to 807.115 by section 17, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.115. The Department of Transportation shall retain a duplicate image of each photograph used on a driver license under the provisions of ORS 807.110 or an identification card under ORS 807.400. The duplicates may not be made available to anyone other than law enforcement officials and employees of the department acting in an official capacity.

807.120 Restrictions generally. (1) The Department of Transportation may place restrictions on any driving privileges granted a person if the department determines that there is good cause to restrict the driving privileges of the person in order to ensure the safe operation of a motor vehicle by the person.

(2) Restrictions placed on a driver license or driver permit by the department under this section shall be suitable to the driving ability of the person whose driving privileges are restricted. The restrictions may include:

(a) Restrictions on the type of motor vehicle the person may operate;

(b) Requirements for special mechanical control devices on motor vehicles operated by the person; or

(c) Any other restrictions the department determines appropriate to ensure the safe operation of a motor vehicle by the person.

(3) The department shall place a restriction on the commercial driver license of a person who performs the skill demonstration required under ORS 807.070 for issuance of a commercial driver license in a vehicle that:

(a) Is not equipped with air brakes. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with service brakes that operate fully or partially by air pressure.

(b) Is equipped with air over hydraulic brakes. Air over hydraulic brakes includes any braking system operating partially by air pressure and partially by hydraulic pressure. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with service brakes that operate solely by air pressure.

(c) Is equipped with an automatic transmission. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with manual transmissions.

(d) Uses any connection other than a fifth wheel hitch between the power unit and a vehicle towed in combination with the power unit. A restriction under this paragraph prohibits the person from operating a commercial motor vehicle in combination with any other vehicle using a fifth wheel hitch between the power unit and first towed unit.

(4) The department shall place a restriction on the commercial driver license and the commercial learner driver permit of a person who does not pass an air brakes knowledge test administered under ORS 807.070. The restriction shall prohibit the person from operating a commercial motor vehicle with service brakes that operate fully or partially by air pressure.

(5) The department may impose restrictions under this section by setting forth the restrictions on the regular license form or by issuing a special form for licenses with restrictions.

(6) The department shall place restrictions on driving privileges under this section when ordered by a court under ORS 809.210 or 809.270. Any restriction imposed under this subsection shall be made a part of the person's driving record and shall remain in effect until the court notifies the department in writing that the restrictions are removed.

(7) The department may impose restrictions under this section on driving privileges that are restored after having been suspended or revoked. The restrictions imposed under this subsection may include any restrictions that have been recommended by a convicting magistrate.

(8) The use of the term "restrictions" in this section includes any restrictions, conditions or requirements.

(9) Violation of any restrictions placed on driving privileges under this section is pun-

ishable as provided under ORS 807.010. [1983 c.338 §307; 1985 c.16 §128; 1989 c.636 §23; 2013 c.237 §43]

807.122 Restrictions on operation with provisional driver license. (1) The Department of Transportation shall place the following restrictions on a provisional driver license issued under ORS 807.065:

(a) Except as provided in subsections (2) to (4) of this section, for the first six months after issuance of the license, the holder of the license may not operate a motor vehicle that is carrying a passenger under 20 years of age who is not a member of the holder's immediate family. For the second six months, the holder of the license may not operate a motor vehicle that is carrying more than three passengers who are under 20 years of age and who are not members of the holder's immediate family.

(b) For the first year after issuance of the license, the holder of the license may not operate a motor vehicle between the hours of 12 midnight and 5 a.m. except when:

(A) The holder is driving between the holder's home and place of employment;

(B) The holder is driving between the holder's home and a school event for which no other transportation is available;

(C) The holder is driving for employment purposes; or

(D) The holder is accompanied by a licensed driver who is at least 25 years of age.

(2) Subsection (1)(a) of this section does not apply to the holder of a provisional driver license who:

(a) Is employed by a farmer, rancher or orchardist;

(b) Is operating, solely for employment purposes, a motor vehicle that is owned by the employer and for which financial responsibility requirements of ORS 806.060 have been met;

(c) Is transporting passengers who are employed by the same employer as the driver and who are being transported solely for employment purposes;

(d) Is not transporting more passengers than the number of available seat belts; and

(e) Has in the vehicle a written statement signed by the employer certifying that the driver is employed by the employer and that there is no other option for transporting the employees.

(3) Subsection (1)(a) of this section does not apply to the holder of a provisional driver license who is 16 or 17 years of age and who is operating a motor vehicle with:

(a) An instructor in the vehicle as part of a certified traffic safety education course; or

(b) A person in the vehicle who has valid driving privileges and who is the parent or stepparent of the holder of the license.

(4) Subsection (1) of this section does not apply to the holder of a provisional driver license who is 18 years of age or older. [1999 c.328 §3; 2001 c.410 §6; 2001 c.608 §1; 2003 c.14 §475; 2003 c.767 §1; 2013 c.68 §1]

807.130 Expiration. (1) A license that is issued as an original license and not as a license that is renewed expires on the anniversary of the licensee's birthday in the eighth calendar year after the year of issuance.

(2) A license that is renewed under ORS 807.150 expires eight years from the specified expiration date of the immediately preceding license.

(3) Notwithstanding subsections (1) and (2) of this section, a license that is issued to a person who is not a citizen or permanent legal resident of the United States expires on the date the licensee is no longer authorized to stay in the United States, as indicated by the documentation the person presented to the Department of Transportation to provide proof of legal presence in the United States as required by ORS 807.021 and 807.730 or proof of lawful status in the United States as required by ORS 807.455, but no longer than eight years from the date of issuance or, if there is no definite end to the authorized stay, after a period of one year.

(4) Subsection (3) of this section does not apply to a person who is a citizen of a country with a Compact of Free Association with the United States and who provides proof of legal presence in the United States as defined by the department by rule.

(5) A license that has expired does not grant driving privileges and is not valid evidence of driving privileges. [1983 c.338 §308; 1985 c.16 §129; 1999 c.91 §1; 2008 c.1 §15; 2013 c.238 §1; 2017 c.568 §20; 2019 c.312 §33]

Note 1: The amendments to 807.130 by section 20, chapter 568, Oregon Laws 2017, and section 33, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017, and section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.130. (1) A license that is issued as an original license and not as a license that is renewed expires on the anniversary of the licensee's birthday in the eighth calendar year after the year of issuance.

(2) A license that is renewed under ORS 807.150 expires eight years from the specified expiration date of the immediately preceding license.

(3) Notwithstanding subsections (1) and (2) of this section, a license that is issued to a person who is not a citizen or permanent legal resident of the United States expires on the date the licensee is no longer authorized to stay in the United States, as indicated by the documentation the person presented to the Department of Transportation to provide proof of legal presence in the United States as required by ORS 807.021

and 807.730, but no longer than eight years from the date of issuance or, if there is no definite end to the authorized stay, after a period of one year.

(4) Subsection (3) of this section does not apply to a person who is a citizen of a country with a Compact of Free Association with the United States and who provides proof of legal presence in the United States as defined by the department by rule.

(5) A license that has expired does not grant driving privileges and is not valid evidence of driving privileges.

Note 2: The amendments to 807.130 by section 18, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.130. (1) A license that is not a limited term driver license and is issued as an original license and not as a license that is renewed expires on the anniversary of the licensee's birthday in the eighth calendar year after the year of issuance.

(2) A license that is renewed under ORS 807.150 expires eight years from the specified expiration date of the immediately preceding license.

(3) Notwithstanding subsections (1) and (2) of this section, a limited term commercial driver license or a limited term Real ID that is issued to a person who is not a citizen or lawful permanent resident of the United States or a citizen of a country with a Compact of Free Association with the United States expires on the date the licensee is no longer authorized to stay in the United States, as indicated by the documentation the person presented to the Department of Transportation to provide proof of lawful status in the United States as required by ORS 807.455 and 807.730, but no longer than eight years from the date of issuance or, if there is no definite end to the authorized stay, after a period of one year.

(4) A license that has expired does not grant driving privileges and is not valid evidence of driving privileges.

807.135 Expiration of license held by Oregon National Guard member or military reservist. (1) Notwithstanding ORS 807.130, a license held by a member of the Oregon National Guard or a military reservist ordered on active duty and deployed to a location outside the United States that expires while the holder is on active duty shall remain valid and grant driving privileges for 90 days following the termination of active duty.

(2) The court shall dismiss the charge of operating a vehicle without driving privileges under ORS 807.010 if, when charged, a member of the Oregon National Guard or a military reservist held a valid license pursuant to subsection (1) of this section. [2005 c.257 §2; 2009 c.482 §3]

807.137 Expiration of license held by person volunteering outside of United States. (1) Notwithstanding ORS 807.130, a driver license held by a person described in subsection (2) of this section that expires while the holder is volunteering outside of the United States shall remain valid and grant driving privileges for 90 days after the date the person returns to the United States.

(2) Subsection (1) of this section applies to persons who are performing services in a location outside of the United States on a volunteer basis for a nonprofit religious, charitable or relief organization, whether or not such persons receive meals or lodging or reimbursements or vouchers for meals, lodging or expenses.

(3) The court shall dismiss the charge of operating a vehicle without driving privileges under ORS 807.010 if, when charged, a person described in subsection (2) of this section held a valid driver license pursuant to subsection (1) of this section. [2015 c.215 §2]

807.140 Notice prior to expiration; exceptions; effect of failure to notify; records. (1) Before the expiration of any license or a license with an endorsement under the vehicle code, the Department of Transportation shall notify the person to whom the license was issued of the approaching expiration. Within a reasonable time prior to the expiration date, the department shall notify the person to whom the license was issued in the manner determined by the department by rule.

(2) The department is not required to notify the person of an approaching expiration if the person's license has been suspended, canceled or revoked or if the person has failed to notify the department of a change of address as required under ORS 807.560.

(3) Notwithstanding subsection (1) of this section, the department is not required to notify the person of an approaching expiration if the person received a limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card under ORS 807.730 for a period of less than one year.

(4) Failure to receive a notice of expiration from the department is not a defense to a charge of driving with an expired license. However, the court may dismiss the charge if the person renews the license before the scheduled court appearance.

(5) The department's responsibility to maintain records concerning notice under this section is as provided under ORS 802.210. [1983 c.338 §309; 1985 c.16 §130; 1985 c.597 §9; 1993 c.751 §41; 2003 c.14 §476; 2009 c.258 §2; 2017 c.306 §9; 2019 c.312 §20]

Note: The amendments to 807.140 by section 20, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.140. (1) Before the expiration of any license or a license with an endorsement under the vehicle code,

the Department of Transportation shall notify the person to whom the license was issued of the approaching expiration. Within a reasonable time prior to the expiration date, the notice shall be mailed to the person to whom the license was issued at the address shown in the files maintained by the department.

(2) The department is not required to notify the person of an approaching expiration if the person's license has been suspended, canceled or revoked or if the person has failed to notify the department of a change of address as required under ORS 807.560.

(3) Notwithstanding subsection (1) of this section, the department is not required to notify the person of an approaching expiration if the person received a limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card under ORS 807.730 for a period of less than one year.

(4) Failure to receive a notice of expiration from the department is not a defense to a charge of driving with an expired license. However, the court may dismiss the charge if the person renews the license before the scheduled court appearance.

(5) The department's responsibility to maintain records concerning notice under this section is as provided under ORS 802.210.

807.150 Renewal; proof of address; rules. (1) When a license expires or is about to expire, the Department of Transportation shall renew the license under this section if the holder of the license qualifies for renewal of the license under this section and:

(a) Applies for renewal within one year of the expiration of a similar license under ORS 807.130; or

(b) Applies for issuance of a license within six months after the applicant is discharged from the Armed Forces of the United States and was licensed by this state at the time of the applicant's entry into the Armed Forces.

(2) To qualify for renewal of a license under this section, a person must meet all of the requirements under ORS 807.040 for the class of license sought to be renewed, except that the department may waive the examination under ORS 807.070 of a person applying for renewal of a license unless the department has reason to believe that the applicant is not qualified to hold the license or unless the applicant for renewal has not previously been examined.

(3) To receive a renewal under this section, the license renewal fee and the Student Driver Training Fund eligibility fee under ORS 807.370 must be paid.

(4) If a person who applies for a renewal under this section is not qualified to renew the class of license sought to be renewed, the department may issue the person any lower class of license for which the person qualifies in lieu of renewing the person's license for the class of license held by the person.

(5) A license that is renewed under this section may be used on or after the date of issuance. If the department issues a license renewal to a person under this section before the expiration of the license being renewed, the older license is invalid. A license that becomes invalid under this subsection shall be destroyed by the person to whom it was issued.

(6) If the address of the applicant has changed since the last time a license was issued to or renewed for the applicant, the department shall require proof to verify the address of an applicant for renewal of a license in addition to anything else the department may require of the applicant. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Verification of proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system. [1983 c.338 §310; 1985 c.16 §131; 1985 c.597 §10; 1985 c.608 §19; 1991 c.709 §2; 1993 c.751 §42; 2001 c.668 §9; 2015 c.716 §8]

807.160 Replacement license or permit; rules; fees. (1) The Department of Transportation shall establish by rule the reasons for issuing a replacement driver license or driver permit to a person who submits an application for the replacement. The reasons for replacement shall include, but are not limited to, situations when the person:

(a) Furnishes proof satisfactory to the department of the loss, destruction or mutilation of the person's driver license or driver permit.

(b) Changes residence address from the address noted on the person's driver license or driver permit or the department's records.

(c) Is a corrections officer or an eligible employee who has requested, in accordance with ORS 802.250 or 802.253, that department records show the address of the person's employer.

(d) Changes names from the name noted on the person's driver license or driver permit.

(e) Is applying or is required to add or remove a restriction on the driver license or driver permit.

(f) Is applying or is required to add or remove an endorsement other than a motorcycle endorsement on the driver license or driver permit.

(g) Furnishes proof satisfactory to the department or the department determines that the department made an error when issuing a driver license or driver permit.

(h) Furnishes proof satisfactory to the department that, for a reason identified by the department by rule, the person needs a replacement driver license or driver permit that bears a different distinguishing number from the license or permit being replaced.

(i) Furnishes proof satisfactory to the department that the person is a veteran, as defined in ORS 408.225, and the person requests a replacement driver license that includes the fact that the person is a veteran.

(2) A replacement driver license or driver permit issued under this section:

(a) Shall bear the same distinguishing number as the driver license or driver permit replaced unless the person applying for the replacement furnishes proof as described in subsection (1)(h) of this section.

(b) Does not alter or extend the driving privileges granted to the person under the old license or permit unless the replacement license or permit was issued for the purpose of changing a restriction or endorsement or for correcting an error involving driving privileges.

(3) Except for driver permits for which the department does not charge an issuance fee, the department shall charge the fee under ORS 807.370 for a replacement license or driver permit issued under this section. The replacement fee is in addition to any endorsement or test fee that may apply. The department may waive the replacement fee as provided under ORS 807.390.

(4) The driver license or driver permit replaced under this section is invalid and shall be surrendered to the department.

(5) The department may not issue a replacement driver license or driver permit under this section if:

(a) The person making application is not qualified to hold a license or permit at the time of application.

(b) The driving privileges of the person making application are suspended or revoked and have not been partially or completely reinstated.

(6) The department need not issue a replacement driver license or driver permit to a person who has not complied with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530 authorizes the department to withhold issuance of a replacement license or permit. [1983 c.338 §313; 1985 c.16 §133; 1985 c.174 §9; 1985 c.258 §4; 1985 c.396 §8; 1985 c.563 §7; 1985 c.597 §12a; 1985 c.669 §9; 1989 c.535 §1; 1991 c.67 §218; 1991 c.523 §7; 1991 c.702 §23; 1993 c.393 §2; 1993 c.751 §43; 2005 c.59 §1; 2005 c.241 §1a; 2005 c.292 §8a; 2010 c.61 §2; 2019 c.312 §16]

807.162 [2001 c.789 §2; 2008 c.1 §16; repealed by 2005 c.775 §15]

(Endorsements)

807.170 Requirements for issuance; fees; cancellation. (1) The Department of Transportation shall provide for the granting of driver license endorsements in a manner consistent with this section.

(2) The department shall grant an endorsement to any person who complies with all of the following requirements:

(a) The person must hold a valid license other than a restricted Class C license issued under the vehicle code.

(b) The person must successfully complete any tests and demonstrations referred to in ORS 807.070 that the department determines necessary to determine whether the applicant is qualified for the type of endorsement sought. The actual demonstration required under ORS 807.070, if any, must be performed in a vehicle that may be operated under the endorsement sought but that may not be operated without the endorsement. Tests shall include, but are not limited to, those tests necessary to determine whether the applicant:

(A) Has satisfactory knowledge of laws relating to operation under the type of endorsement sought, defensive driving skills, the common causes of accidents involving vehicles operated under the type of endorsement sought; and

(B) Can operate under the endorsement in a manner that will not jeopardize the safety of persons or property.

(c) The appropriate fee under ORS 807.370 for the endorsement, including the fee for the Motorcycle Safety Subaccount, must be paid.

(d) If the person is applying for a motorcycle endorsement, the person must comply with ORS 807.175.

(3) An endorsement granted under this section is subject to the following:

(a) It is part of the license upon which it is endorsed and is subject to any provisions applicable to the endorsed license under the statutes of this state.

(b) It is valid only if the license endorsed is valid.

(c) The appropriate fee under ORS 807.370 must be paid upon renewal of the endorsement in addition to any fee for renewal of the license endorsed.

(d) Except as provided under ORS 807.350 or as specifically provided under ORS 809.419, an endorsement cannot be canceled, suspended or revoked separately from the license endorsed. When an endorsed license is canceled, suspended or revoked, all endorsements on the license are subject to the same cancellation, suspension or revocation as the license.

(4) Before the department may renew any license with a motorcycle endorsement, the applicant shall pay the department the Motorcycle Safety Subaccount fee established under ORS 807.370 in addition to any fee for renewal of the license. [1983 c.338 §312; 1985 c.16 §132; 1985 c.608 §20; 1989 c.427 §4; 1989 c.636 §24; 1997 c.292 §2; 2003 c.14 §477; 2003 c.402 §17; 2009 c.810 §2]

807.173 Additional requirements for hazardous materials endorsement; rules. (1) Notwithstanding ORS 807.170, the Department of Transportation may not issue or renew a commercial driver license with a hazardous materials endorsement and may cancel a commercial driver license with a hazardous materials endorsement if a person:

(a) Does not complete and pass a security threat assessment from the federal Transportation Security Administration, including receipt by the department of a notice from the federal Transportation Security Administration showing that the person does not pose a security threat. The department shall establish by rule the process and frequency for obtaining a security threat assessment.

(b) Is assessed as a security threat by the federal Transportation Security Administration. The assessment must be received by the department in the form of a notice from the federal Transportation Security Administration.

(c) Is not a U.S. citizen or permanent legal resident as defined by the department by rule.

(2) A person is entitled to administrative review under ORS 809.440 when the department does not issue or renew a commercial driver license with a hazardous materials endorsement under this section or cancels a commercial driver license with a hazardous materials endorsement under this section.

(3) To the extent possible, rules promulgated by the department under this section should be uniform with any applicable federal regulations related to the holding of a commercial driver license with a hazardous materials endorsement. [2005 c.649 §33; 2009 c.395 §8]

Note: The amendments to 807.173 by section 19, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.173. (1) Notwithstanding ORS 807.170, the Department of Transportation may not issue or renew a commercial driver license with a hazardous materials endorsement and may cancel a commercial driver license with a hazardous materials endorsement if a person:

(a) Does not complete and pass a security threat assessment from the federal Transportation Security Administration, including receipt by the department of a notice from the federal Transportation Security Administration showing that the person does not pose a security threat. The department shall establish by rule the process and frequency for obtaining a security threat assessment.

(b) Is assessed as a security threat by the federal Transportation Security Administration. The assessment must be received by the department in the form of a notice from the federal Transportation Security Administration.

(c) Is not a U.S. citizen or lawful permanent resident as defined by the department by rule.

(2) A person is entitled to administrative review under ORS 809.440 when the department does not issue or renew a commercial driver license with a hazardous materials endorsement under this section or cancels a commercial driver license with a hazardous materials endorsement under this section.

(3) To the extent possible, rules promulgated by the department under this section should be uniform with any applicable federal regulations related to the holding of a commercial driver license with a hazardous materials endorsement.

807.175 Motorcycle education course. (1) The Department of Transportation may not issue a motorcycle endorsement to a person unless the person shows to the satisfaction of the department that the person has successfully completed a motorcycle rider education course established by the department under ORS 802.320. This requirement is in addition to any other requirement for the endorsement.

(2) Subsection (1) of this section does not apply to a person applying for issuance of a motorcycle endorsement under ORS 807.170 who:

(a) Currently holds a motorcycle endorsement issued by another state; or

(b) Is applying for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels. [1989 c.427 §2; 1991 c.453 §13; 1993 c.288 §2; 1997 c.292 §3; 2003 c.14 §478; 2009 c.810 §3; 2011 c.326 §1]

(Permits)

807.200 Types of permit. (1) The following permits may be issued as restricted Class C licenses:

(a) Disability golf cart driver permits described under ORS 807.210.

(b) Emergency driver permits described under ORS 807.220.

(c) Special student driver permits described under ORS 807.230.

(2) Hardship driver permits described under ORS 807.240 may be issued as Class C licenses. Restrictions on the license are as provided under ORS 807.240.

(3) Instruction driver permits described under ORS 807.280 may be issued for a Class C license.

(4) Motorcycle instruction driver permits described under ORS 807.280 may be issued only to persons having a commercial driver license or a Class C license.

(5) Commercial learner driver permits described under ORS 807.285 may be issued for Class A, Class B or Class C commercial driving privileges. [1985 c.608 §8b; 1987 c.801 §2; 1989 c.636 §25; 2003 c.160 §1; 2013 c.237 §44; 2018 c.76 §7]

807.210 Disability golf cart permit; fees. The Department of Transportation shall provide for issuance of disability golf cart driver permits in a manner consistent with this section. A disability golf cart driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a disability golf cart driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a Class C license. The following apply to a disability golf cart driver permit:

(1) The department shall issue a disability golf cart driver permit only to persons with ambulatory disabilities.

(2) The department shall issue a disability golf cart driver permit to an applicant who would not qualify for a license because of the person's disability if the department determines that the person's disability does not prevent the person from reasonable and ordinary control of vehicles operated under the permit when operated as allowed under the permit.

(3) In addition to any other restrictions placed on the permit by the department, the permit only grants driving privileges for the operation of golf carts or substantially similar vehicles on roads or streets in an area with a speed designation not greater than 25 miles per hour.

(4) The department may require an applicant for the permit to demonstrate that the applicant is qualified to safely exercise the driving privileges granted under a disability golf cart driver permit notwithstanding the disability of the person.

(5) The fees for issuance or renewal of a disability golf cart driver permit are the disability golf cart driver permit issuance or renewal fees established under ORS 807.370. This subsection only affects the fees payable for issuance and renewal and is not an exemption from payment of other fees payable at the time of issuance and renewal of a license.

(6) A person with a disability golf cart driver permit who commits the offense of violation of license restrictions under ORS 807.010 by driving on a road or street in an area with a speed designation greater than 25 miles per hour commits a Class D traffic violation. [1983 c.338 §321; 1985 c.16 §139; 1985 c.608 §25; 1989 c.636 §26]

807.220 Emergency driver permit; fees. (1) The Department of Transportation shall provide for the issuance of emergency driver permits in a manner consistent with this section.

(2) Except as otherwise provided in this section an emergency driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a Class C license.

(3) The following apply to an emergency driver permit:

(a) The department may issue an emergency driver permit to a person 14 years of age or older.

(b) The department shall place restrictions on the permit that designate the routes over which the permit is valid. The department shall designate routes it determines necessary from the facts creating the emergency.

(c) The permit shall only be issued if the department is satisfied that an emergency exists that requires operation of a motor vehicle by the applicant.

(d) The department may establish a form for the permit that differs from the form required for a license.

(e) The only fee required for issuance of the permit is the emergency driver permit fee under ORS 807.370.

(f) The department may establish a period for the expiration of the permit that coincides with the end of the emergency that is the basis for the permit.

(g) The department shall cancel the permit if the department determines that the holder of the permit has operated a motor vehicle over any highway or for any purpose other than one approved under the permit.

(h) If an emergency driver permit is canceled, the person issued the permit is ineligible to be issued another emergency driver permit for a period of one year.

(i) In addition to any other application requirements for the emergency driver permit, the applicant must obtain the endorsement on the application of the sheriff of the county in which the applicant resides.

(4) The department may issue an emergency driver permit, if the person qualifies for the permit, to a person whose driving privileges are suspended under ORS 809.280 because the department has received an order suspending driving privileges under ORS 809.260. In addition to other emergencies, a situation that leaves the applicant with no alternative means to travel to and from school is an emergency for purposes of a permit issued under this subsection. [1983 c.338 §322; 1985 c.16 §140; 1985 c.174 §10; 1985 c.608 §26; 1987 c.262 §1; 1989 c.636 §27; 2001 c.410 §4; 2003 c.14 §479; 2005 c.59 §5; 2011 c.355 §2]

807.230 Special student driver permit; fees. The Department of Transportation shall provide for issuance of special student driver permits in a manner consistent with this section. A special student driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a special student driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a Class C license. The following apply to a special student driver permit:

(1) The department may issue a special student driver permit to a person 14 years of age or older.

(2) The department shall place restrictions on the permit to limit operation of a vehicle under the permit to operation necessary as a means of transportation to or from the school, college or other educational institution attended by the person to whom the driver permit is issued.

(3) The permit shall only be issued if the applicant has no other available means of transportation by which to continue the applicant's education.

(4) The permit shall only be issued if the department is satisfied that the applicant has had sufficient experience in the operation of motor vehicles to operate a motor vehicle without endangering the safety of the public.

(5) The department may establish a form for the permit that differs from the form required for a license that is issued.

(6) The only fee required for issuance of the permit is the special student driver permit fee under ORS 807.370.

(7) The department shall cancel the permit if the department determines that the holder of the permit has operated a motor vehicle over any highway or for any purpose other than as approved under the permit.

(8) If a special student driver permit is canceled, the person issued the permit is ineligible to be issued any license or driver permit until the person is old enough to be eligible for a license.

(9) In addition to any other application requirements for the special student driver permit, the applicant must:

(a) Certify that the applicant has no other available means of transportation that would enable the applicant to continue the applicant's education;

(b) Specify the road or highway over which the applicant desires to operate motor vehicles;

(c) Obtain the endorsement of the sheriff of the county in which the applicant resides and of the principal of the school the applicant attends; and

(d) Provide any other information required by the department. [1983 c.338 §323; 1985 c.174 §11; 1985 c.597 §17a; 1985 c.608 §27; 1989 c.636 §28; 2003 c.14 §480; 2005 c.59 §6]

807.240 Hardship permit; fees; rules. The Department of Transportation shall provide for issuance of hardship driver permits in a manner consistent with this section. A hardship driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a hardship driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a license. The following apply to a hardship driver permit:

(1) The department may only issue a permit to a person whose driving privileges under the vehicle code have been suspended, or revoked under ORS 809.600 as a habitual offender.

(2) Except as provided in this section and ORS 813.520, the department may reinstate the privilege to operate a motor vehicle of any person whose license to operate a motor vehicle has been suspended, or revoked under ORS 809.600 as a habitual offender, by issuing the person a hardship permit.

(3) To qualify for a hardship permit, a person must do all of the following:

(a) The person must submit to the department an application for the permit that demonstrates the person's need for the permit.

(b) The person must present satisfactory evidence, as determined by the department by rule:

(A) That the person must operate a motor vehicle as a requisite of the person's occupation or employment;

(B) That the person must operate a motor vehicle to seek employment or to get to or from a place of employment;

(C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment or rehabilitation program;

(D) That the person or a member of the person's immediate family requires medical treatment on a regular basis and that the person must operate a motor vehicle in order that the treatment may be obtained;

(E) That the person must operate a motor vehicle to get to or from a gambling addiction treatment program; or

(F) That the person must operate a motor vehicle to provide necessary services to the person or to a member of the person's family. The department shall determine by rule what constitutes necessary services for purposes of this subparagraph. The rule shall include as necessary services, but need not be limited to, grocery shopping, driving the person or the person's children to school, driving to medical appointments and caring for elderly family members.

(c) If the person is applying for a permit because the person or a member of the person's immediate family requires medical treatment on a regular basis, the person must present, in addition to any evidence required by the department under paragraph (b) of this subsection, a statement signed by a licensed physician or licensed nurse practitioner that indicates that the person or a member of the person's immediate family requires medical treatment on a regular basis.

(d) The person must show that the person is not incompetent to drive nor a habitual incompetent, reckless or criminally negligent driver as established by the person's driving record in this or any other jurisdiction.

(e) The person must make a future responsibility filing.

(f) The person must submit any other information the department may require for purposes of determining whether the person qualifies under this section and ORS 813.520.

(4) If the department finds that the person meets the requirements of this section and any applicable requirements under ORS 813.520, the department may issue the person a hardship permit, valid for the duration of the suspension or revocation or for a shorter period of time established by the department unless sooner suspended or revoked under this section. If the department issues the permit for a period shorter than the suspension or revocation period, renewal of the permit shall be on such terms and conditions as the department may require. The permit:

(a) Shall limit the holder to operation of a motor vehicle only during specified times.

(b) May bear other reasonable limitations relating to the hardship permit or the operation of a motor vehicle that the department deems proper or necessary. The limitations may include any limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS 811.175 or 811.182.

(5) The department, upon receiving satisfactory evidence of any violation of the limitations of a permit issued under this section, may suspend or revoke the hardship permit.

(6) The fee charged for application or issuance of a hardship driver permit is the hardship driver permit application fee under ORS 807.370. The department may not refund the fee if the application is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit is the same fee as that charged for renewal of a license. The application fee charged under this subsection is in addition to any fee charged for reinstatement of driving privileges under ORS 807.370.

(7) The department may issue a permit granting the same driving privileges as those suspended or revoked or may issue a permit granting fewer driving privileges, as the department determines necessary to assure safe operation of motor vehicles by the permit holder.

(8) The department may not issue a hardship permit to a person:

(a) Whose driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783;

(b) Whose driving privileges are suspended pursuant to ORS 809.280 (2);

(c) That authorizes the person to operate a commercial motor vehicle;

(d) Whose suspension of driving privileges is based on a second or subsequent conviction of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction and the suspension period is determined by ORS 809.428 (2)(b) or (c);

(e) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree if the person, within 10 years preceding application for the permit, has been convicted of:

(A) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle;

(B) Reckless driving, as defined in ORS 811.140;

(C) Driving while under the influence of intoxicants, as defined in ORS 813.010;

(D) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705;

(E) Criminal driving while suspended or revoked, as defined in ORS 811.182;

(F) Fleeing or attempting to elude a police officer, as defined in ORS 811.540;

(G) Aggravated vehicular homicide, as defined in ORS 163.149; or

(H) Aggravated driving while suspended or revoked, as defined in ORS 163.196; or

(f) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree:

(A) For a period of four years from the date the department suspends driving privileges if the person's driving privileges are suspended for conviction of assault in the second degree and the person was not incarcerated for that conviction.

(B) For a period of four years from the date the person is released from incarceration for the conviction if the person's driving privileges are suspended for conviction of assault in the second degree and the person was incarcerated for that conviction.

(C) For a period of two years from the date the department suspends driving privileges if the person's driving privileges are suspended for conviction of assault in the third degree and the person was not incarcerated for that conviction.

(D) For a period of two years from the date the person is released from incarceration for the conviction if the person's driving privileges are suspended for conviction of assault in the third degree and the person was incarcerated for that conviction.

(E) For a period of six months from the date the department suspends driving privileges if the person's driving privileges are suspended for conviction of assault in the fourth degree and the person is not incarcerated for that conviction.

(F) For a period of six months from the date the person is released from incarceration for the conviction if the person's driving privileges are suspended for conviction of assault in the fourth degree and the person was incarcerated for that conviction.

(9) A conviction arising out of the same episode as the current suspension is not considered a conviction for purposes of subsection (8)(e) of this section.

(10) A person's driving privileges under a hardship permit are subject to suspension or revocation if the person does not maintain a good driving record, as defined by the administrative rules of the department, during the term of the permit. [1983 c.338 §327; 1985 c.16 §144; 1985 c.608 §29; 1987 c.730 §11; 1987 c.801 §3; 1989 c.636 §33; 1991 c.860 §4; 1993 c.627 §2; 1993 c.751 §45; 1999 c.796 §4; 2001 c.294 §1; 2003 c.23 §1; 2003 c.160 §2; 2005 c.471 §11; 2017 c.319 §1; 2018 c.76 §§2,2a; 2019 c.215 §1; 2019 c.358 §43]

807.250 [1985 c.16 §150; 1987 c.262 §2; 1987 c.801 §4; 1991 c.835 §5; 1995 c.750 §§3,6; 1999 c.619 §6; 2003 c.23 §2; 2003 c.204 §1; 2011 c.355 §27; 2017 c.21 §76; 2017 c.319 §2; repealed by 2018 c.76 §1]

807.252 [1999 c.796 §3; 2001 c.104 §302; 2003 c.14 §481; 2003 c.23 §3; 2007 c.867 §9; 2009 c.783 §8; 2017 c.319 §3; 2018 c.22 §7; repealed by 2018 c.76 §1]

807.260 [1985 c.16 §152; 1987 c.801 §5; repealed by 2018 c.76 §1]

807.270 [1983 c.338 §326; 1985 c.16 §143; 1985 c.597 §18; 1985 c.608 §28; 1987 c.730 §12; 1999 c.1051 §280; 2001 c.294 §2; 2003 c.160 §3; 2007 c.195 §4; repealed by 2018 c.76 §1]

807.280 Instruction driver permit; fees. The Department of Transportation shall provide for the issuance of instruction driver permits in a manner consistent with this section. A person who is issued an instruction driver permit may exercise the same driving privileges as those under the class of license or endorsement for which the permit is issued except as provided in this section or under the permit. Except as otherwise provided in this section, an instruction driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a license or endorsement granting the same driving privileges. The following apply to an instruction driver permit:

(1) An instruction driver permit is subject to the same classifications and endorsements as a license. The department may issue an instruction driver permit to grant the same driving privileges as a Class C driver license or as a motorcycle endorsement, but the instruction driver permit will also be subject to the provisions of this section.

(2) The department may issue an instruction driver permit to a person who is qualified to obtain the same driving privileges under the corresponding class of license or type of endorsement except for the person's age or lack of experience in the operation of motor vehicles subject to the following:

(a) An applicant must be 15 years of age or older to receive the same driving privileges as are granted under a Class C license.

(b) An applicant must be 16 years of age or older and have a commercial driver license or a Class C license to receive the same driving privileges as are granted under a motorcycle endorsement.

(c) An applicant must be 18 years of age or older to receive the same driving privileges as are granted under any class of license not otherwise provided for under this subsection.

(3) The fees required for issuance or renewal of an instruction driver permit are the instruction driver permit fees under ORS 807.370.

(4) A Class C instruction driver permit shall be valid for 24 months from the date of issuance. All other instruction driver permits

issued under this section shall be valid for one year from the date of issuance.

(5) When an instruction driver permit expires or is about to expire, the department shall renew the instruction driver permit if the holder of the instruction driver permit qualifies for renewal of the instruction driver permit under this section and applies for renewal:

(a) Within one year of the expiration of an instruction driver permit issued under this section; or

(b) Within six months after the applicant is discharged from the Armed Forces of the United States if the applicant held an instruction driver permit issued by this state at the time of the applicant's entry into the Armed Forces.

(6) To qualify for renewal of an instruction driver permit, a person must meet all of the requirements for the type of instruction driver permit sought to be renewed, except that the department may waive the examination unless the department has reason to believe that the applicant is not qualified for the instruction driver permit.

(7) An instruction driver permit that is renewed under this section may be used on or after the date of issuance. If the department issues an instruction driver permit renewal to a person under this section before the expiration of the instruction driver permit being renewed, the older permit is invalid. An instruction driver permit that becomes invalid under this subsection shall be surrendered to the department.

(8) The holder of the instruction driver permit may not operate a motor vehicle unless the holder has the instruction driver permit in the holder's immediate possession and is accompanied by a person with a class of license granting the same driving privileges or a license with an endorsement granting the same driving privileges who is not less than 21 years of age. The accompanying person must be occupying a seat beside the holder of the instruction driver permit unless the instruction driver permit is for motorcycle driving privileges. For an instruction driver permit granting motorcycle driving privileges, the holder of the instruction driver permit must be in the company and under the supervision and visual observation of the accompanying person and the accompanying person must be operating a separate motorcycle.

(9) The holder of an instruction driver permit granting motorcycle driving privileges is subject to the following in addition to any other requirements under this section:

(a) The holder may operate a motorcycle only during daylight hours.

(b) The holder may not carry any passengers on the motorcycle.

(c) The holder of the instruction driver permit must wear an approved helmet while operating a motorcycle.

(10)(a) The department may issue an instruction driver permit to a person with a limited vision condition if a rehabilitation training specialist certifies to the department that the person has successfully completed a rehabilitation training program.

(b) As used in this subsection, "limited vision condition," "rehabilitation training specialist" and "rehabilitation training program" have the meanings given those terms in ORS 807.355.

(11) In addition to any other requirements under this section, the holder of an instruction driver permit issued under subsection (10) of this section may operate a motor vehicle only when using a bioptic telescopic lens. [1983 c.338 §316; 1985 c.16 §135; 1985 c.608 §23; 1989 c.397 §1; 1989 c.636 §29; 1991 c.67 §219; 2001 c.410 §5; 2003 c.14 §482; 2003 c.277 §§8,12; 2005 c.59 §§7,8; 2005 c.649 §§35,36; 2007 c.121 §§1,2; 2007 c.588 §5; 2013 c.237 §45]

807.285 Commercial learner driver permit; fees. (1) The Department of Transportation shall issue commercial learner driver permits in the manner provided by this section. Except as provided in this section, a person who is issued a commercial learner driver permit may exercise the same driving privileges as those under the class of commercial driver license or endorsement for which the permit is issued. Except as provided in this section, a commercial learner driver permit is subject to the provisions, conditions, prohibitions and penalties applicable to a license or endorsement granting the same driving privileges.

(2) The department may issue commercial learner driver permits under this section that grant the driving privileges of a Class A commercial, Class B commercial or Class C commercial driver license, subject to the requirements and restrictions described in this section.

(3) An applicant for a commercial learner driver permit must be 18 years of age or older and must have a valid driver license issued by the department.

(4) In addition to meeting the requirement of providing proof of legal presence under ORS 807.021 and 807.040, an applicant for a commercial learner driver permit must submit valid documentation, as defined by the department by rule, that the person is a citizen or permanent legal resident of the United States. The requirements of this subsection do not apply to:

(a) An applicant for a limited term commercial learner driver permit issued under ORS 807.730.

(b) A person who is a citizen of a country with a Compact of Free Association with the United States.

(5) A commercial learner driver permit is valid for a period of one year from the date of issuance and is not renewable.

(6) Except as provided in subsection (7) of this section, the holder of the commercial learner driver permit may not operate a commercial motor vehicle unless the holder has the permit in the holder's immediate possession and is accompanied by a person who:

(a) Is at least 21 years of age;

(b) Holds a class of commercial driver license and endorsements that grant the driving privileges required to operate the vehicle;

(c) Has no restrictions on the person's driving privileges that would make operation of the vehicle unlawful under ORS 807.010 (2);

(d) Has the permit holder under observation and direct supervision; and

(e) Is occupying a seat beside the holder of the permit or, in the case of a commercial passenger vehicle, directly behind or in the first row behind the driver.

(7) When taking an examination as described in ORS 807.070 (3) with an examiner employed by the department, the holder of a commercial learner driver permit is not required to be accompanied by a commercial driver license holder as otherwise required under subsection (6) of this section.

(8) The holder of a commercial learner driver permit may not operate:

(a) Any vehicle transporting hazardous materials.

(b) A tank vehicle, unless the tank is empty.

(c) A commercial passenger vehicle while transporting passengers, unless the passengers are federal or state auditors or inspectors, test examiners or other trainees and there is a commercial driver license holder accompanying the permit holder as required by subsection (6) of this section.

(d) A school bus while transporting passengers, unless the other passengers are federal or state auditors or inspectors, test examiners or other trainees and there is a commercial driver license holder accompanying the permit holder as required by subsection (6) of this section.

(e) A commercial motor vehicle combination consisting of more than one towed vehicle.

(9) A commercial learner driver permit must contain all of the applicable information described in ORS 807.110 (1) and a prominent statement that the permit is a "commercial learner permit" or "CLP."

(10) An applicant for a commercial learner driver permit must pay the commercial learner driver permit fee established under ORS 807.370. [2013 c.237 §32; 2017 c.306 §§5,5a]

Note: The amendments to 807.285 by section 20, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.285. (1) The Department of Transportation shall issue commercial learner driver permits in the manner provided by this section. Except as provided in this section, a person who is issued a commercial learner driver permit may exercise the same driving privileges as those under the class of commercial driver license or endorsement for which the permit is issued. Except as provided in this section, a commercial learner driver permit is subject to the provisions, conditions, prohibitions and penalties applicable to a license or endorsement granting the same driving privileges.

(2) The department may issue commercial learner driver permits under this section that grant the driving privileges of a Class A commercial, Class B commercial or Class C commercial driver license, subject to the requirements and restrictions described in this section.

(3) An applicant for a commercial learner driver permit must be 18 years of age or older and must have a valid driver license issued by the department.

(4) In addition to meeting the requirement of providing proof of lawful status under ORS 807.040, an applicant for a commercial learner driver permit must submit valid documentation, as defined by the department by rule, that the person is a citizen or lawful permanent resident of the United States or a citizen of a country with a Compact of Free Association with the United States. The requirements of this subsection do not apply to an applicant for a limited term commercial learner driver permit issued under ORS 807.730.

(5) A commercial learner driver permit is valid for a period of one year from the date of issuance and is not renewable.

(6) Except as provided in subsection (7) of this section, the holder of the commercial learner driver permit may not operate a commercial motor vehicle unless the holder has the permit in the holder's immediate possession and is accompanied by a person who:

(a) Is at least 21 years of age;

(b) Holds a class of commercial driver license and endorsements that grant the driving privileges required to operate the vehicle;

(c) Has no restrictions on the person's driving privileges that would make operation of the vehicle unlawful under ORS 807.010 (2);

(d) Has the permit holder under observation and direct supervision; and

(e) Is occupying a seat beside the holder of the permit or, in the case of a commercial passenger vehicle, directly behind or in the first row behind the driver.

(7) When taking an examination as described in ORS 807.070 (3) with an examiner employed by the department, the holder of a commercial learner driver permit is not required to be accompanied by a commer-

cial driver license holder as otherwise required under subsection (6) of this section.

(8) The holder of a commercial learner driver permit may not operate:

(a) Any vehicle transporting hazardous materials.

(b) A tank vehicle, unless the tank is empty.

(c) A commercial passenger vehicle while transporting passengers, unless the passengers are federal or state auditors or inspectors, test examiners or other trainees and there is a commercial driver license holder accompanying the permit holder as required by subsection (6) of this section.

(d) A school bus while transporting passengers, unless the other passengers are federal or state auditors or inspectors, test examiners or other trainees and there is a commercial driver license holder accompanying the permit holder as required by subsection (6) of this section.

(e) A commercial motor vehicle combination consisting of more than one towed vehicle.

(9) A commercial learner driver permit must contain all of the applicable information described in ORS 807.110 (1) and a prominent statement that the permit is a "commercial learner permit" or "CLP."

(10) An applicant for a commercial learner driver permit must pay the commercial learner driver permit fee established under ORS 807.370.

807.290 Special temporary instruction driver permit; fees. (1) The Department of Transportation shall provide for the issuance of special temporary instruction driver permits in a manner consistent with this section. Except as provided in this section, a special temporary instruction driver permit is subject to the same fees, provisions, conditions, prohibitions and penalties applicable to an instruction driver permit under ORS 807.280.

(2) The department may issue a special temporary instruction driver permit, without charge, to a person who has filed an application for and paid the fee for a special student driver permit or an emergency driver permit but was unable to qualify for the permit because of lack of experience in the operation of motor vehicles. A permit issued under this section shall be valid for only 60 days. [1983 c.338 §317]

807.300 [1985 c.608 §29b; 1987 c.744 §7; repealed by 1989 c.636 §54]

807.310 Applicant temporary permit; rules. (1) The Department of Transportation shall provide for the issuance of applicant temporary driver permits in a manner consistent with this section.

(2) The department may issue an applicant temporary driver permit to an applicant for a driver license or for a driver permit while the department is determining all facts relative to application for the driver license or driver permit. The department shall set forth on the applicant temporary driver permit the driving privileges granted under the permit.

(3) The holder of an applicant temporary driver permit must have the temporary driver permit on the holder's person while operating a motor vehicle. The holder of an applicant temporary driver permit must operate within the driving privileges granted under the temporary driver permit.

(4) An applicant temporary driver permit is valid for a period of 30 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 30 days.

(5) If an applicant has complied with all the requirements for an application for a driver license or driver permit, except that the applicant is unable to produce the documentation required by the department under ORS 807.021 and 807.730, the department, at the time of application, may issue to the applicant an applicant temporary driver permit as provided in this section if the applicant certifies that the applicant is, to the best of the applicant's knowledge, legally present in the United States.

(6) An applicant temporary driver permit issued to an applicant who is applying for noncommercial driving privileges under subsection (5) of this section is valid for a period of 90 days from the date issued. The department may extend the term of the permit up to two times for sufficient cause. Each extension of the term of the permit may not exceed 90 days.

(7) Notwithstanding subsection (6) of this section, the department may, in the manner provided by rule, further extend the term of the applicant temporary driver permit for an applicant who needs additional time to obtain the documentation required under ORS 807.021 and 807.730.

(8) An applicant temporary driver permit automatically becomes invalid if the applicant's license or permit is issued or refused for good cause.

(9) The department may not charge a fee for issuance of an applicant temporary driver permit under this section. [1983 c.338 §315; 1985 c.16 §134; 1985 c.597 §13; 1985 c.608 §22; 2008 c.1 §27; 2011 c.9 §98; 2011 c.282 §3; 2017 c.190 §14]

Note: The amendments to 807.310 by section 21, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.310. (1) The Department of Transportation shall provide for the issuance of applicant temporary driver permits in a manner consistent with this section.

(2) The department may issue an applicant temporary driver permit to an applicant for a driver license or for a driver permit while the department is determining all facts relative to application for the driver

license or driver permit. The department shall set forth on the applicant temporary driver permit the driving privileges granted under the permit.

(3) The holder of an applicant temporary driver permit must have the temporary driver permit on the holder's person while operating a motor vehicle. The holder of an applicant temporary driver permit must operate within the driving privileges granted under the temporary driver permit.

(4) An applicant temporary driver permit is valid for a period of 30 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 30 days.

(5) An applicant temporary driver permit automatically becomes invalid if the applicant's license or permit is issued or refused for good cause.

(6) The department may not charge a fee for issuance of an applicant temporary driver permit under this section.

807.320 Court issued temporary driver permit. (1) Courts shall provide for issuance of court issued temporary driver permits in a manner consistent with this section. A court issued temporary driver permit grants only those driving privileges specifically granted under the permit.

(2) If a court takes immediate possession of a license or driver permit under ORS 809.275 upon suspension or revocation of the driving privileges under the license or driver permit, the court shall issue a court issued temporary driver permit to the person convicted if the court determines issuance of the permit is necessary to give full effect to the requirement that the court take the license or driver permit under ORS 809.275.

(3) A court issued temporary driver permit:

(a) Shall be issued in a form specified by the Department of Transportation.

(b) Is valid until midnight of the day of conviction of the person issued the permit. [1983 c.338 §324; 1993 c.751 §47]

807.330 Court bail driver permit. (1) Courts shall provide for the issuance of court bail driver permits in a manner and to grant driving privileges consistent with this section.

(2) The court bail driver permit shall act as a receipt for a license that is accepted as security by a court under ORS 810.300 and 810.310.

(3) The permit confers on the person to whom it is issued the same driving privileges as the license which was accepted as security.

(4) The Department of Transportation shall prepare a form for the permit and all permits issued pursuant to this section shall conform to the form so prepared.

(5) Upon issuance of a permit, a court shall promptly notify the department of the fact.

(6) The driving privileges granted under the permit are valid only until the time fixed for appearance or the expiration of 30 days from the date the permit is issued, whichever first occurs.

(7) No fee shall be charged for issuance of the permit. [1983 c.338 §325; 1999 c.1051 §280a]

(Continuing Eligibility)

807.340 Proof of eligibility; effect of failure to reestablish; waiver of fee. (1) The Department of Transportation may require any person to whom a driver license, driver permit or endorsement is issued to appear before the department and provide proof that the person was eligible or reestablish the person's eligibility by taking an examination under ORS 807.070 or following the procedures in ORS 807.090, as appropriate. The department may act under this section if the department has reason to believe that the person:

(a) Was not qualified to hold a driver license, driver permit or endorsement at the time of issuance;

(b) Is no longer qualified to hold a driver license, driver permit or endorsement; or

(c) Is no longer able to safely operate a motor vehicle.

(2) If a person does not appear before the department within a reasonable time after receiving notice from the department under this section or is unable to reestablish eligibility to the satisfaction of the department under this section, the department may:

(a) Take action to suspend the person's driving privileges under ORS 809.419; or

(b) Take action to cancel the person's driving privileges under ORS 809.310.

(3) A person who is required to take one or more tests described in ORS 807.070 to prove eligibility or to reestablish eligibility under this section is not required to pay the fee established under ORS 807.370 for the test. [1983 c.338 §314; 1985 c.608 §21; 2003 c.14 §483; 2003 c.402 §18; 2003 c.618 §51; 2017 c.190 §1]

807.350 Cancellation of privileges; issuance of more limited license or permit. (1) The Department of Transportation, at any time, may cancel the driving privileges or part of the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the department determines that the person no longer meets the qualifications or requirements for the license, endorsement or permit.

(2)(a) The department may immediately cancel the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the person is unable to reestablish eligibility un-

der ORS 807.340 and the department determines that:

(A) The person is no longer able to safely operate a motor vehicle; and

(B) The person may endanger people or property if the person's driving privileges are not immediately canceled.

(b) A cancellation under this subsection is subject to a post-imposition hearing under ORS 809.440.

(3) Upon cancellation under this section, a person whose driving privileges are canceled shall surrender to the department any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

(4) If the department cancels driving privileges under this section, the department may provide for the issuance of a license, driver permit or license with endorsement or limitations granting driving privileges for which the person does qualify or meet the requirements. The department may provide for the waiver of all or part of the fees relating to the issuance of a license or driver permit when the department issues a driver permit or license under this subsection, as the department determines equitable.

(5) A person whose driving privileges are canceled under this section may regain the canceled driving privileges only by reapplying for the privileges and establishing eligibility and qualification for the driving privileges as provided by law. [1985 c.608 §33; 2003 c.14 §484; 2011 c.355 §31]

(Persons With Limited Vision)

807.355 Definitions. As used in this section and ORS 807.359, 807.363 and 807.368:

(1) "Licensed vision specialist" means an ophthalmologist or an optometrist.

(2) "Limited vision condition" means visual acuity in the better eye with best lens correction that is no better than 20/80 and no worse than 20/200.

(3) "Rehabilitation training program" means a program designed to train a person with a limited vision condition to use a bioptic telescopic lens while operating a motor vehicle.

(4) "Rehabilitation training specialist" means a person certified by the Department of Transportation to provide a rehabilitation training program.

(5) "Special limited vision condition learner's permit" means a permit issued by the department to a person with a limited vision condition that allows the person to enroll in a rehabilitation training program. [2003 c.277 §2]

807.359 Special limited vision condition learner's permit. (1) A person with a limited vision condition may apply for a special limited vision condition learner's permit if the person:

(a) Is examined by a licensed vision specialist who determines that the person:

(A) Has no ocular diagnosis or prognosis that may result in deterioration of the person's corrected vision below a 20/200 level of visual acuity;

(B) Has a visual field of at least 120 degrees horizontally and 80 degrees vertically; and

(C) Would be aided by using a bioptic telescopic lens when operating a motor vehicle;

(b) Is fitted by the licensed vision specialist with a bioptic telescopic lens mounted on the carrier lens;

(c) Submits to the Department of Transportation a report from the licensed vision specialist certifying that the person meets the requirements of this subsection;

(d) Submits proof to the department that the person is enrolled in a rehabilitation training program; and

(e) Takes the test described under ORS 807.070 (2).

(2) The department shall issue a special limited vision condition learner's permit to a person who meets the requirements of subsection (1) of this section upon application and payment of the fee under ORS 807.370.

(3) If the department issues a special limited vision condition learner's permit to a person under subsection (2) of this section, the department shall send the permit to the rehabilitation training program in which the person is enrolled. [2003 c.277 §3]

807.363 Issuance of driver license to person with limited vision condition. (1) The Department of Transportation shall issue a driver license to a person with a limited vision condition if the person:

(a) Complies with the requirements of ORS 807.040; and

(b) Provides a certificate issued by a rehabilitation training specialist certifying that the person has successfully completed a rehabilitation training program.

(2) A license issued to a person with a limited vision condition who meets the requirements of subsection (1) of this section is restricted to authorize operation of a motor vehicle only:

(a) During daylight hours; and

(b) When the person is using a bioptic telescopic lens.

(3) A person issued a license under this section shall be examined every two years by a licensed vision specialist who certifies to the department that the person meets the vision requirements under ORS 807.359.

(4) A person must use a bioptic telescopic lens whenever the person is required to take a test that is an actual demonstration of the person's ability to operate a motor vehicle without endangering the safety of persons or property. [2003 c.277 §4; 2007 c.588 §2; 2013 c.473 §1]

807.368 Form of permit; rehabilitation training specialists; rules. (1) The Department of Transportation shall adopt rules that establish:

(a) The form of the special limited vision condition learner's permit issued under ORS 807.359.

(b) Certification of rehabilitation training specialists, including:

(A) Qualifications or requirements for obtaining certification as a rehabilitation training specialist.

(B) The issuance of rehabilitation training specialist certificates.

(C) The regulation of persons issued rehabilitation training specialist certificates and the rehabilitation training programs offered by those persons.

(D) Reasonable fees for issuance of a rehabilitation training specialist certificate.

(E) The forms of certificates to be issued.

(2) The department shall adopt by rule requirements for a person certified by the department as a rehabilitation training specialist to certify the competency of a person with a limited vision condition to safely exercise driving privileges granted under ORS 807.363. [2003 c.277 §5]

807.369 Driving at night. (1) Notwithstanding ORS 807.363, a person with a limited vision condition may operate a vehicle at night if the person:

(a) Is issued a driver license under ORS 807.363;

(b) Provides a certificate issued by a rehabilitation training specialist certifying that the person has successfully completed a rehabilitation training program and is able to safely operate a motor vehicle at night; and

(c) Is examined every two years by a licensed vision specialist who certifies that the person is able to safely operate a motor vehicle at night.

(2) As used in this section, "limited vision condition," "rehabilitation training specialist" and "rehabilitation training program" have the meanings given those terms in ORS 807.355. [2007 c.588 §8]

FEES

807.370 License, endorsement and permit fees. (1) Fees for issuance of or application for a driving privilege are as follows:

(a) Class C driver license or restricted Class C driver license, $54.

(b) Class C limited term driver license or restricted Class C limited term driver license, $23.

(c) Commercial driver license, whether or not the driver license contains endorsements, $75.

(d) Limited term commercial driver license, whether or not the driver license contains endorsements, $45.

(e) Instruction driver permit, $23.

(f) Commercial learner driver permit, $23.

(g) Limited term commercial learner driver permit, $23.

(h) Special student driver permit, $23.

(i) Emergency driver permit, $23.

(j) Special limited vision condition learner's permit, $13.

(k) Disability golf cart driver permit, $44.

(L) Hardship driver permit application, $50.

(2) In addition to paying a fee under this section for issuance of a commercial driver license of any class, when the Department of Transportation accepts skills test results from a driver competency tester certified under ORS 807.080, the person shall pay a fee of $40.

(3) Fees for a motorcycle endorsement are as follows:

(a) In addition to any fee for the endorsed driver license, for an original motorcycle endorsement added at the time of an original issuance of a driving privilege or with a renewal or replacement of an existing driving privilege, $46.

(b) For an original motorcycle endorsement added without an original issuance of a driving privilege or without a renewal or replacement of an existing driving privilege, $49.

(c) A Motorcycle Safety Subaccount fee:

(A) Upon original issuance of a motorcycle endorsement, $38.

(B) Upon renewal of a driver license with a motorcycle endorsement, $28.

(4) Fees for a farm endorsement are as follows:

(a) In addition to any fee for the endorsed driver license, for an original farm endorsement added at the time of an original issuance of a driving privilege or with a renewal

or replacement of an existing driving privilege, $26.

(b) For an original farm endorsement added without an original issuance of a driving privilege or without a renewal or replacement of an existing driving privilege, $29.

(5) Fees for renewal of a driving privilege are as follows:

(a) Class C driver license, $34.

(b) Class C limited term driver license, $8.

(c) Commercial driver license, $55.

(d) Limited term commercial driver license, $14.

(e) Instruction driver permit, $23.

(f) Disability golf cart driver permit, $32.

(6) Fee to replace a driver license or driver permit, $26.

(7) Fees to take tests required for driving privileges or to remove restrictions are as follows:

(a) The knowledge test for a Class C driver license or Class C limited term driver license, $5.

(b) The knowledge test for a motorcycle endorsement, $5.

(c) The knowledge test for any commercial driver license or commercial learner driver permit, to remove a commercial driving privilege restriction or to add a commercial driving privilege endorsement, $10.

(d) The skills test for a Class C driver license or Class C limited term driver license, $9.

(e) The skills test for any commercial driver license, to remove a restriction or to add any commercial driver license endorsement, $70.

(8) Student Driver Training Fund eligibility fee, $6.

(9) Limited term Student Driver Training Fund eligibility fee, $2.

(10) Fee for reinstatement of revoked driving privileges under ORS 809.390 or reinstatement of suspended driving privileges under ORS 809.380, $75.

(11) The department may adopt rules to provide for the assessment or retention of the skills test fee when a test is scheduled but the applicant fails to appear at the scheduled time. [1983 c.338 §344; 1985 c.16 §161; 1985 c.279 §2; 1985 c.736 §4a; 1985 c.608 §31; 1987 c.790 §3; 1987 c.801 §6; 1989 c.161 §2; 1989 c.427 §5; 1989 c.636 §30; 1989 c.902 §3a; 1991 c.709 §3; 1991 c.835 §6; 1993 c.288 §3; 1997 c.292 §1; 1999 c.91 §2; 1999 c.770 §5; 1999 c.795 §§1,2; 2001 c.294 §4; 2001 c.668 §3; 2003 c.14 §485; 2003 c.277 §§9,13; 2003 c.618 §49; 2005 c.59 §§2,3; 2005 c.649 §§10,11; 2007 c.121 §§3,4; 2007 c.122 §§9,10; 2007 c.588 §6; 2008 c.1 §§17,19; 2009 c.810 §§4,5; 2013 c.237 §33; 2017 c.306 §7; 2018 c.76 §8a; 2018 c.114 §1]

807.375 [2005 c.775 §5; repealed by 2018 c.114 §9]

807.380 [1985 c.16 §157; 1985 c.258 §3; repealed by 1999 c.91 §8]

807.390 Waiver of certain fees; rules. (1) The Department of Transportation, by rule, may provide for a waiver of the fee under ORS 807.160 for issuance of a replacement license or driver permit.

(2) Rules adopted by the department under this section may provide for waiver of the described fee only when all of the following apply:

(a) A person requests a change in information contained on a license or driver permit or the department determines such change is necessary.

(b) The change in information requested under this subsection is generally accomplished under procedures that do not require the issuance of a new license or driver permit.

(c) The department decides to issue a new license or driver permit:

(A) For purposes of convenience; or

(B) Under circumstances in which the department does not generally issue a new license or driver permit. [1985 c.258 §2; 1999 c.91 §7; 2005 c.59 §4]

IDENTIFICATION CARDS

807.400 Issuance; application; proof of address; contents; renewal; fee; validity; replacement; cancellation; rules. (1) The Department of Transportation shall issue an identification card to any person who:

(a) Is domiciled in or is a resident of this state, as described in ORS 807.062;

(b) As required by ORS 807.021 and 807.730, provides the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number;

(c) Does not have a current, valid driver license;

(d) Furnishes evidence of the person's full legal name and date of birth; and

(e) Submits to collection of biometric data by the department that establish the identity of the person as provided in ORS 807.024.

(2) The department shall work with other agencies and organizations to attempt to improve the issuance system for identification cards.

(3) Every original application for an identification card must be signed by the applicant. The department shall require proof to verify the address of an applicant for issuance of an identification card in addition to other documents the department may require of the applicant. If the address of an applicant has changed since the last time an identification card was issued to or renewed for the applicant, the department shall require proof to verify the address of the applicant for renewal of an identification card, in addition to anything else the department may require. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system.

(4) Every identification card shall be issued upon the standard driver license form described under ORS 807.110 and shall bear a statement to the effect that the identification card is not a driver license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only. The department shall use the same security procedures, processes, materials and features for an identification card as are required for a driver license under ORS 807.110. The identification card is not required to contain the residence address of persons listed in ORS 807.110 (1)(e).

(5) If the identification card is a limited term identification card issued under ORS 807.730, the limited term identification card shall indicate:

(a) That it is a limited term identification card; and

(b) The date on which the limited term identification card expires.

(6) Upon order of the juvenile court, the department shall include on the card the fact that the person issued the identification card is an emancipated minor.

(7) Upon request of the person to whom the identification card is issued and presentation of proof, as determined by the department by rule, that the person is a veteran, as defined in ORS 408.225, the department shall include on the card the fact that the person is a veteran.

(8) Each original identification card shall expire on a date consistent with the expiration dates of licenses as set forth in ORS 807.130.

(9) Identification cards shall be renewed under the terms for renewal of licenses as set forth in ORS 807.150.

(10) The fee for an original identification card or a renewal thereof shall be the fee established under ORS 807.410.

(11) An identification card becomes invalid if the holder of the card changes the holder's residence address from that shown on the identification card and does not provide the department with notice of the change as required under ORS 807.420.

(12) If a person to whom an identification card was issued and who changes the person's residence address submits an application for a replacement identification card, the department may issue a replacement identification card containing the new address upon receipt of the old identification card and payment of the fee established under ORS 807.410. Except as otherwise provided in subsection (14) of this section, the replacement identification card shall bear the same distinguishing number as the card being replaced.

(13) An identification card becomes invalid if the holder of the card changes the holder's name from that shown on the card, including a change of name by marriage, without providing the department with notice of the change as required under ORS 807.420. Upon receiving such notice and the old identification card, the department shall issue a replacement identification card upon payment of the fee established under ORS 807.410.

(14) In the event that, for a reason identified by the department by rule, a person needs a replacement identification card that bears a distinguishing number different from the number on the card being replaced, the person to whom the card was issued may obtain a replacement card from the department upon furnishing proof satisfactory to the department of the need for such replacement and payment of the fee established under ORS 807.410.

(15) If a person furnishes proof that the person is a veteran, as defined in ORS 408.225, and the person's identification card does not include the fact that the person is a veteran, the department shall issue a replacement identification card that includes the fact that the person is a veteran.

(16) The department may establish by rule reasons for issuing replacement identification cards that are in addition to the reasons identified in subsections (12) to (15) of

this section. The fee for a replacement identification card is provided under ORS 807.410.

(17) Upon cancellation of an identification card, the card is terminated and must be surrendered to the department. An identification card may be canceled for any of the reasons that driving privileges or a driver license may be canceled under ORS 809.310. The department may reissue an identification card canceled under this subsection when the applicant has satisfied all requirements for the identification card.

(18) Notwithstanding any other provision of this section, the department may issue an identification card to a person under this subsection without charge when the person surrenders the person's driver license or driver permit to the department for reasons described in this subsection. If the department issues an identification card under this subsection, the identification card shall expire at the same time as the surrendered driver license or driver permit would have expired. An identification card issued under this subsection is subject to the same requirements and fees for renewal or upon expiration as any other identification card issued under this section. The department may issue identification cards under this subsection for any of the following reasons:

(a) The person voluntarily surrenders the person's driver license or driver permit to the department based upon the person's recognition that the person is no longer competent to drive.

(b) The person's driving privileges are suspended under ORS 809.419 (1). This paragraph only applies if the person voluntarily surrenders the person's driver license or driver permit to the department as provided under ORS 809.500.

(19) If a person is applying for an identification card that is a Real ID, the person must comply with the requirements under the vehicle code for issuance of Real IDs. [1983 c.338 §866; 1985 c.16 §437; 1985 c.174 §13; 1985 c.301 §2; 1989 c.535 §2; 1993 c.393 §2a; 1993 c.741 §82; 1993 c.751 §48; 2001 c.452 §1; 2003 c.402 §19; 2005 c.59 §10; 2005 c.241 §2a; 2005 c.775 §8; 2007 c.542 §§8,9; 2008 c.1 §§21,22; 2010 c.61 §3; 2011 c.282 §4; 2015 c.716 §1; 2017 c.568 §18; 2019 c.312 §§26,27]

Note 1: The amendments to 807.400 by section 18, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, including amendments by section 26, chapter 312, Oregon Laws 2019, is set forth for the user's convenience.

807.400. (1) The Department of Transportation shall issue an identification card to any person who:

(a) Is domiciled in or is a resident of this state, as described in ORS 807.062;

(b) As required by ORS 807.021 and 807.730, provides the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number;

(c) Does not have a current, valid driver license;

(d) Furnishes evidence of the person's full legal name, age and identity as the department may require; and

(e) Submits to collection of biometric data by the department that establish the identity of the person as provided in ORS 807.024.

(2) The department shall work with other agencies and organizations to attempt to improve the issuance system for identification cards.

(3) Every original application for an identification card must be signed by the applicant. The department shall require proof to verify the address of an applicant for issuance of an identification card in addition to other documents the department may require of the applicant. If the address of an applicant has changed since the last time an identification card was issued to or renewed for the applicant, the department shall require proof to verify the address of the applicant for renewal of an identification card, in addition to anything else the department may require. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Verification of proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system.

(4) Every identification card shall be issued upon the standard license form described under ORS 807.110 and shall bear a statement to the effect that the identification card is not a license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only. The department shall use the same security procedures, processes, materials and features for an identification card as are required for a license under ORS 807.110. The identification card is not required to contain the residence address of persons listed in ORS 807.110 (1)(e).

(5) If the identification card is a limited term identification card issued under ORS 807.730, the limited term identification card shall indicate:

(a) That it is a limited term identification card; and

(b) The date on which the limited term identification card expires.

(6) Upon order of the juvenile court, the department shall include on the card the fact that the person issued the identification card is an emancipated minor.

(7) Upon request of the person to whom the identification card is issued and presentation of proof, as determined by the department by rule, that the person is a veteran, as defined in ORS 408.225, the department shall include on the card the fact that the person is a veteran.

(8) Each original identification card shall expire on a date consistent with the expiration dates of licenses as set forth in ORS 807.130.

(9) Identification cards shall be renewed under the terms for renewal of licenses as set forth in ORS 807.150.

(10) The fee for an original identification card or a renewal thereof shall be the fee established under ORS 807.410.

(11) An identification card becomes invalid if the holder of the card changes the holder's residence address from that shown on the identification card and does not provide the department with notice of the change as required under ORS 807.420.

(12) If a person to whom an identification card was issued and who changes the person's residence address submits an application for a replacement identification card, the department may issue a replacement identification card containing the new address upon receipt of the old identification card and payment of the fee established under ORS 807.410. Except as otherwise provided in subsection (14) of this section, the replacement identification card shall bear the same distinguishing number as the card being replaced.

(13) An identification card becomes invalid if the holder of the card changes the holder's name from that shown on the card, including a change of name by marriage, without providing the department with notice of the change as required under ORS 807.420. Upon receiving such notice and the old identification card, the department shall issue a replacement identification card upon payment of the fee established under ORS 807.410.

(14) In the event that, for a reason identified by the department by rule, a person needs a replacement identification card that bears a distinguishing number different from the number on the card being replaced, the person to whom the card was issued may obtain a replacement card from the department upon furnishing proof satisfactory to the department of the need for such replacement and payment of the fee established under ORS 807.410.

(15) If a person furnishes proof that the person is a veteran, as defined in ORS 408.225, and the person's identification card does not include the fact that the person is a veteran, the department shall issue a replacement identification card that includes the fact that the person is a veteran.

(16) The department may establish by rule reasons for issuing replacement identification cards that are in addition to the reasons identified in subsections (12) to (15) of this section. The fee for a replacement identification card is provided under ORS 807.410.

(17) Upon cancellation of an identification card, the card is terminated and must be surrendered to the department. An identification card may be canceled for any of the reasons that driving privileges or a driver license may be canceled under ORS 809.310. The department may reissue an identification card canceled under this subsection when the applicant has satisfied all requirements for the identification card.

(18) Notwithstanding any other provision of this section, the department may issue an identification card to a person under this subsection without charge when the person surrenders the person's driver license or driver permit to the department for reasons described in this subsection. If the department issues an identification card under this subsection, the identification card shall expire at the same time as the surrendered driver license or driver permit would have expired. An identification card issued under this subsection is subject to the same requirements and fees for renewal or upon expiration as any other identification card issued under this section. The department may issue identification cards under this subsection for any of the following reasons:

(a) The person voluntarily surrenders the person's driver license or driver permit to the department based upon the person's recognition that the person is no longer competent to drive.

(b) The person's driving privileges are suspended under ORS 809.419 (1). This paragraph only applies if the person voluntarily surrenders the person's driver license or driver permit to the department as provided under ORS 809.500.

Note 2: The amendments to 807.400 by section 6, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.400. (1) The Department of Transportation shall issue an identification card to any person who:

(a) Is domiciled in or is a resident of this state, as described in ORS 807.062;

(b) When applying for an identification card that is not a Real ID, provides the Social Security number assigned to the person by the United States Social Security Administration or a written statement that the person has not been assigned a Social Security number, as required under ORS 807.021;

(c) Does not have a current, valid driver license;

(d) Furnishes evidence of the person's full legal name and date of birth; and

(e) Submits to collection of biometric data by the department that establish the identity of the person as provided in ORS 807.024.

(2) The department shall work with other agencies and organizations to attempt to improve the issuance system for identification cards.

(3) Every original application for an identification card must be signed by the applicant. The department shall require proof to verify the address of an applicant for issuance of an identification card in addition to other documents the department may require of the applicant. If the address of an applicant has changed since the last time an identification card was issued to or renewed for the applicant, the department shall require proof to verify the address of the applicant for renewal of an identification card, in addition to anything else the department may require. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system.

(4) Every identification card shall be issued upon the standard driver license form described under ORS 807.110 and shall bear a statement to the effect that the identification card is not a driver license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only. The department shall use the same security procedures, processes, materials and features for an identification card as are required for a driver license under ORS 807.110. The identification card is not required to contain the residence address of persons listed in ORS 807.110 (1)(e).

(5) If the identification card is a limited term identification card issued under ORS 807.730, the limited term identification card shall indicate:

(a) That it is a limited term identification card; and

(b) The date on which the limited term identification card expires.

(6) Upon order of the juvenile court, the department shall include on the card the fact that the person issued the identification card is an emancipated minor.

(7) Upon request of the person to whom the identification card is issued and presentation of proof, as determined by the department by rule, that the person is a veteran, as defined in ORS 408.225, the department

shall include on the card the fact that the person is a veteran.

(8) Each original identification card shall expire on a date consistent with the expiration dates of licenses as set forth in ORS 807.130.

(9) Identification cards shall be renewed under the terms for renewal of licenses as set forth in ORS 807.150.

(10) The fee for an original identification card or a renewal thereof shall be the fee established under ORS 807.410.

(11) An identification card becomes invalid if the holder of the card changes the holder's residence address from that shown on the identification card and does not provide the department with notice of the change as required under ORS 807.420.

(12) If a person to whom an identification card was issued and who changes the person's residence address submits an application for a replacement identification card, the department may issue a replacement identification card containing the new address upon receipt of the old identification card and payment of the fee established under ORS 807.410. Except as otherwise provided in subsection (14) of this section, the replacement identification card shall bear the same distinguishing number as the card being replaced.

(13) An identification card becomes invalid if the holder of the card changes the holder's name from that shown on the card, including a change of name by marriage, without providing the department with notice of the change as required under ORS 807.420. Upon receiving such notice and the old identification card, the department shall issue a replacement identification card upon payment of the fee established under ORS 807.410.

(14) In the event that, for a reason identified by the department by rule, a person needs a replacement identification card that bears a distinguishing number different from the number on the card being replaced, the person to whom the card was issued may obtain a replacement card from the department upon furnishing proof satisfactory to the department of the need for such replacement and payment of the fee established under ORS 807.410.

(15) If a person furnishes proof that the person is a veteran, as defined in ORS 408.225, and the person's identification card does not include the fact that the person is a veteran, the department shall issue a replacement identification card that includes the fact that the person is a veteran.

(16) The department may establish by rule reasons for issuing replacement identification cards that are in addition to the reasons identified in subsections (12) to (15) of this section. The fee for a replacement identification card is provided under ORS 807.410.

(17) Upon cancellation of an identification card, the card is terminated and must be surrendered to the department. An identification card may be canceled for any of the reasons that driving privileges or a driver license may be canceled under ORS 809.310. The department may reissue an identification card canceled under this subsection when the applicant has satisfied all requirements for the identification card.

(18) Notwithstanding any other provision of this section, the department may issue an identification card to a person under this subsection without charge when the person surrenders the person's driver license or driver permit to the department for reasons described in this subsection. If the department issues an identification card under this subsection, the identification card shall expire at the same time as the surrendered driver license or driver permit would have expired. An identification card issued under this subsection is subject to the same requirements and fees for renewal or upon expiration as any other identification card issued under this section. The department may issue identification cards under this subsection for any of the following reasons:

(a) The person voluntarily surrenders the person's driver license or driver permit to the department based upon the person's recognition that the person is no longer competent to drive.

(b) The person's driving privileges are suspended under ORS 809.419 (1). This paragraph only applies if the person voluntarily surrenders the person's driver license or driver permit to the department as provided under ORS 809.500.

(19) If a person is applying for an identification card that is a Real ID, the person must comply with the requirements under the vehicle code for issuance of Real IDs.

807.405 Applicant temporary identification card; rules. (1) The Department of Transportation shall provide for the issuance of applicant temporary identification cards in a manner consistent with this section.

(2) The department may issue an applicant temporary identification card to an applicant while the department is determining all facts relative to the application for an identification card.

(3) An applicant temporary identification card is valid for a period of 30 days from the date issued. The department may extend the term of the applicant temporary identification card for sufficient cause. An extension of the term of the applicant temporary identification card may not exceed an additional 30 days.

(4) If an applicant has complied with all the requirements for an application for an identification card, except that the applicant is unable to produce the documentation required by the department under ORS 807.021 and 807.730, the department, at the time of application, may issue to the applicant an applicant temporary identification card as provided in this section if the applicant certifies that the applicant is, to the best of the applicant's knowledge, legally present in the United States.

(5) An applicant temporary identification card issued to an applicant under subsection (4) of this section is valid for a period of 90 days from the date issued. The department may extend the term of the permit up to two times for sufficient cause. Each extension of the term of the permit may not exceed 90 days.

(6) Notwithstanding subsection (5) of this section, the department may, in the manner provided by rule, further extend the term of the applicant temporary identification card for an applicant who needs additional time to obtain the documentation required under ORS 807.021 and 807.730.

(7) An applicant temporary identification card automatically becomes invalid if the applicant's identification card is issued or refused for good cause.

(8) The department may not charge a fee for issuance of an applicant temporary identification card under this section. [2005 c.775 §10; 2008 c.1 §28; 2011 c.9 §99; 2011 c.282 §5]

Note: The amendments to 807.405 by section 22, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.405. (1) The Department of Transportation shall provide for the issuance of applicant temporary identification cards in a manner consistent with this section.

(2) The department may issue an applicant temporary identification card to an applicant while the department is determining all facts relative to the application for an identification card.

(3) An applicant temporary identification card is valid for a period of 30 days from the date issued. The department may extend the term of the applicant temporary identification card for sufficient cause. An extension of the term of the applicant temporary identification card may not exceed an additional 30 days.

(4) An applicant temporary identification card automatically becomes invalid if the applicant's identification card is issued or refused for good cause.

(5) The department may not charge a fee for issuance of an applicant temporary identification card under this section.

807.410 Fees. (1) The following fees apply to identification cards unless otherwise provided by ORS 807.400 or otherwise provided by law:

(a) For issuance of an original identification card, $44.50.

(b) For renewal of an identification card, $40.50.

(c) For replacement of an identification card, $39.50.

(d) For reinstatement of an identification card after suspension, $75.

(e) For issuance of an original limited term identification card, $20.

(f) For renewal of a limited term identification card, $18.

(g) For replacement of a limited term identification card, $39.50.

(2) The Department of Transportation may not charge a fee for issuing, renewing or replacing a parking identification card. [1983 c.338 §867; 1985 c.16 §438; 1985 c.174 §14; 1985 c.301 §3; 1985 c.736 §7; 1987 c.790 §4; 1989 c.902 §4; 1993 c.393 §2b; 1999 c.91 §3; 2001 c.668 §4; 2003 c.601 §3; 2008 c.1 §§23,25; 2009 c.865 §§46,47; 2019 c.15 §1]

807.420 Failure to notify department on change of name or address; rules; penalty. (1) A person to whom an identification card is issued under ORS 807.400 commits the offense of failure to notify the Department of Transportation on change of identification card holder name or address if the person does not notify the department in a manner authorized by the department by rule upon any change of the person's:

(a) Residence address from that noted on the person's identification card as issued; or

(b) Name from that noted on the person's identification card as issued, including a change of name by marriage.

(2) Notice required under this section:

(a) Must be given within 30 days of the change.

(b) Must be given in person for a change of name.

(3) The department shall note on its records any change reported to the department under this section.

(4) The offense described in this section, failure to notify department on change of identification card holder name or address, is a Class D traffic violation. [1983 c.338 §868; 1993 c.751 §49; 2003 c.129 §2]

807.430 Misuse of identification card; penalty. (1) A person commits the offense of misuse of an identification card if the person performs any act in relation to an identification card issued under ORS 807.400 that is prohibited in relation to a license under ORS 807.530, 807.580 to 807.600 or 809.500 or fails to perform any act in relation to an identification card issued under ORS 807.400 that is required in relation to a license under ORS 807.530, 807.580 to 807.600 or 809.500.

(2) The offense described by this section, misuse of identification card, is a Class A misdemeanor. [1983 c.338 §869; 1985 c.393 §67; 1987 c.262 §3]

REAL ID

807.450 Definition. "Real ID" means a driver license, driver permit or identification card that complies with the Real ID Act of 2005, P.L. 109-13, that is issued by this state and marked with a distinguishing feature. [2017 c.568 §3]

Note: 807.450 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

807.455 Issuance, replacement and renewal; requirements. (1) The Department of Transportation shall issue a Real ID to any person who:

(a) Meets the requirements for a driver license, driver permit or identification card as described in the vehicle code;

(b) Submits proof, as required by rule by the department, establishing the person's:

(A) Identity;

(B) Date of birth;

(C) Social Security number, or proof that the person is not eligible for a Social Security number; and

(D) Lawful status in the United States;

(c) Pays the fee described in ORS 807.460; and

(d) Surrenders any Real ID previously issued to the person by this state or another jurisdiction.

(2) If there is any change to the applicant's name, date of birth or Social Security number after the department issues a Real ID to the applicant, the department may not replace or renew the Real ID unless the applicant appears in person and submits proof of the change, as required by rule by the department. [2017 c.568 §4]

Note: 807.455 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

807.460 Fees. (1) In addition to any fee imposed under ORS 807.370 or 807.410, the Department of Transportation shall impose a fee for each Real ID issued, renewed or replaced, for the purpose of covering the additional costs to the department related to the issuance of Real IDs.

(2) An applicant who applies for a Real ID driver license as an original driver license shall pay the driver license issuance fee under ORS 807.370, plus the fee described in subsection (1) of this section.

(3) An applicant who applies to replace a current driver license with a Real ID driver license shall pay the driver license replacement fee under ORS 807.370, plus the fee described in subsection (1) of this section.

(4) An applicant who applies to renew a driver license with a Real ID driver license shall pay the driver license renewal fee under ORS 807.370, plus the fee described in subsection (1) of this section.

(5) In addition to the fees in subsection (2), (3) or (4) of this section, an applicant who applies for a class of driver license that is different from the driver license the applicant currently holds, or who applies to add or remove an endorsement, as part of Real ID issuance, shall pay the fees associated with the new class of license or the endorsement for which the applicant is applying. [2017 c.568 §5; 2018 c.60 §1; 2018 c.114 §7]

Note: 807.460 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

807.465 Document retention. For the purpose of issuing Real IDs only, the Department of Transportation shall:

(1) Capture digital images of identity source documents and retain the images in a transferable format.

(2) Retain digital images of identity source documents for a minimum of 10 years. [2017 c.568 §6]

Note: 807.465 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

807.470 Disclosure of identity source documents. (1) Except as provided in subsection (2) of this section, an officer, employee or contractor of the Department of Transportation may not knowingly disclose, or otherwise make available to any person copies of, identity source documents submitted to the department in connection with an application for a driver license, driver permit or identification card.

(2) An officer, employee or contractor of the department may make information or copies described in subsection (1) of this section available to the agency that issued the identity source document for the purpose of verifying the identity source document. [2017 c.568 §7]

Note: 807.470 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

807.475 Fingerprint requirements. (1) The Department of Transportation may require all employees, volunteers or contractors with access to systems that enable them to affect the information that appears on driver licenses, driver permits or identification cards to be fingerprinted.

(2) Fingerprints acquired under this section may be used for the purpose of requesting state or nationwide criminal records checks under ORS 181A.195. [2017 c.568 §8]

Note: 807.475 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

807.480 Verification of lawful status in the United States; rules. (1) The Department of Transportation shall verify an applicant's Social Security number before issuing an original or renewal Real ID.

(2) The department shall verify the applicant's lawful status in the United States before issuing an original Real ID.

(3) The department shall verify the lawful status in the United States of an applicant who is not a citizen of the United States when the applicant is applying to renew a Real ID.

(4) Notwithstanding the requirements of subsections (2) and (3) of this section, the department may verify the lawful status in the United States of any applicant applying for renewal or replacement of a Real ID, as determined by the department by rule.

(5) The department shall determine, by rule, expiration dates for a Real ID issued to a person who is not a citizen or permanent legal resident of the United States. To the extent possible, rules adopted by the department under this section must be uniform with any applicable federal regulations related to Real ID. [2017 c.568 §9; 2019 c.312 §34]

Note: 807.480 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The amendments to 807.480 by section 34, chapter 312, Oregon Laws

2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019.

807.485 Public information program. The Department of Transportation shall develop a public information program to educate driver license, driver permit and identification card applicants and the general public about:

(1) The differences between Real IDs and driver licenses, driver permits or identification cards that are not Real IDs, including but not limited to information about cost, document storage and function.

(2) Alternatives to obtaining a Real ID to access federal facilities and board federally regulated commercial aircraft. [2017 c.568 §10]

Note: 807.485 becomes operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017.

OFFENSES

807.500 Unlawful production of certain documents; affirmative defense; penalty. (1) A person commits the offense of unlawful production of identification cards, licenses, permits, forms or camera cards if the person, without the authority of the Department of Transportation, advertises for the production of, produces in any way or causes to be produced any facsimiles of the identification cards, licenses, permits, forms or camera cards upon which the department issues identification cards, licenses or driver permits under the vehicle code.

(2) The offense described in this section, unlawful production of identification cards, licenses, permits, forms or camera cards, is a Class C felony.

(3) It is an affirmative defense to violating subsection (1) of this section that the person charged with the offense was under 21 years of age at the time of committing the offense and the person produced an identification card, license or permit solely for the purpose of enabling the person to purchase alcohol, tobacco products as defined in ORS 431A.175 or inhalant delivery systems as defined in ORS 431A.175. [1983 c.338 §330; 1985 c.597 §19; 1993 c.393 §3; 2003 c.633 §1; 2015 c.158 §27; 2017 c.701 §17]

807.510 Transfer of documents for purposes of misrepresentation; penalty. (1) A person commits the offense of transfer of documents for the purposes of misrepresentation if the person:

(a) Manufactures, produces, sells, offers for sale or transfers to another person any document purporting to be a certified copy of a record of a live birth, certificate of baptism, driver license or any other document designated by the Department of Transportation by rule as acceptable for establishing age or identity; and

(b) Knows or has reason to know that the document may be used to represent a person as another person in obtaining documents issued by a government agency to grant driving privileges or for identification purposes.

(2) The offense described in this section, transfer of documents for purposes of misrepresentation, is a Class A misdemeanor. [1983 c.338 §331; 1985 c.597 §20; 1993 c.393 §4; 2013 c.366 §84]

807.520 False swearing to receive license; penalty. (1) A person commits the offense of false swearing to receive a driver license if the person makes any false affidavit or knowingly swears or affirms falsely to any matter required to be sworn to or affirmed in the process of applying for, receiving and holding a license or driver permit under the vehicle code.

(2) The offense described in this section, false swearing to receive a driver license, is a Class A misdemeanor. [1983 c.338 §332]

807.530 False application for license; penalty. (1) A person commits the offense of providing a false application for a license if the person in applying for a license or driver permit or for renewal or replacement thereof under the vehicle code knowingly:

(a) Uses or gives a false or fictitious name or identity;

(b) Gives or uses a false or fictitious address;

(c) Gives or uses a false age;

(d) Makes a false statement;

(e) Conceals a material fact;

(f) Uses or attempts to use false identification documents;

(g) Allows another person to take any test related to issuance of a license or permit on behalf of the applicant; or

(h) Otherwise commits fraud in the application.

(2) The offense described in this section, providing a false application for a license, is a Class A misdemeanor. [1983 c.338 §333; 1985 c.16 §153; 1993 c.393 §5; 1999 c.770 §3; 2005 c.59 §9]

807.540 Failure to surrender prior license; penalty. (1) A person commits the offense of failing to surrender a prior license if the person accepts a license or driver permit issued by the Department of Transportation to that person without first surrendering all out-of-state licenses or driver permits issued to that person.

(2) The offense described in this section, failure to surrender a prior license, is a Class D traffic violation. [1983 c.338 §334; 1985 c.16 §154; 1985 c.597 §21; 1995 c.383 §9]

807.550 Holding multiple licenses; penalty. (1) A person commits the offense of holding multiple licenses if the person applies for and accepts a license or driver permit, other than an instruction driver permit, when the person holds an existing license or driver permit.

(2) The offense described in this section, holding multiple licenses, is a Class B traffic violation. [1983 c.338 §335; 1985 c.608 §30]

807.560 Failure to notify department upon change of address or name; rules; penalty. (1) A person to whom a license or driver permit is issued commits the offense of failure to notify upon change of driver address or name if the person does not notify the Department of Transportation in a manner authorized by the department by rule upon any change of the person's:

(a) Residence address from that noted on the person's license or driver permit as issued or on the department's records;

(b) Name from that noted on the person's license or driver permit as issued, including a change of name by marriage; or

(c) Place of employment, if the person is a corrections officer, as provided in ORS 802.253, or an eligible employee, as defined in ORS 802.250, whose place of employment address is noted on department records in accordance with ORS 802.250 or 802.253.

(2) Notice required under this section:

(a) Must be given within 30 days of change of driver address or name.

(b) Must be given in person for a change of name.

(3) The department shall note on its records any change reported to the department under this section.

(4) Failure to notify upon change of driver address or name is a Class D traffic violation. [1983 c.338 §337; 1985 c.563 §8; 1989 c.695 §2; 1991 c.523 §8; 2003 c.129 §3; 2005 c.292 §9; 2019 c.312 §17]

807.570 Failure to carry or present license; penalty. (1) A person commits the offense of failure to carry a license or to present a license to a police officer if the person either:

(a) Drives any motor vehicle upon a highway in this state without a license, driver permit or out-of-state license in the person's possession; or

(b) Does not present and deliver such license or permit to a police officer when requested by the police officer under any of the following circumstances:

(A) Upon being lawfully stopped or detained when driving a vehicle.

(B) When the vehicle that the person was driving is involved in an accident.

(2) This section does not apply to any person expressly exempted under ORS 807.020 from the requirement to have a driver license or driver permit.

(3) Except as provided in ORS 813.110, it is a defense to any charge under this section that the person so charged produce a license, driver permit or out-of-state license that had been issued to the person and was valid at the time of violation of this section.

(4) A police officer may detain a person arrested or cited for the offense described in this section only for such time as reasonably necessary to investigate and verify the person's identity.

(5) The offense described in this section, failure to carry a license or to present a license to a police officer, is a Class C misdemeanor. [1983 c.338 §339; 1985 c.16 §158; 1987 c.217 §6]

807.580 Using invalid license; penalty. (1) A person commits the offense of using an invalid license if the person knowingly displays or permits to be displayed or possesses any license or driver permit that the person knows is fictitious, canceled, revoked, suspended or fraudulently altered.

(2) The offense described in this section, using an invalid license, is a Class A misdemeanor. [1983 c.338 §340]

807.590 Permitting misuse of license; penalty. (1) A person commits the offense of permitting misuse of a license if the person has been issued a license or driver permit and the person knowingly lends the license or driver permit to another or knowingly permits another person to use the license or driver permit.

(2) The offense described in this section, permitting misuse of a license, is a Class A misdemeanor. [1983 c.338 §341]

807.600 Using another's license; penalty. (1) A person commits the offense of using another's license if the person knowingly displays or represents as the person's license or driver permit a license or driver permit that has not been issued to the person.

(2) The offense described in this section, using another's license, is a Class A misdemeanor. [1983 c.338 §342; 1985 c.16 §159]

807.610 Employing or providing vehicle to unqualified driver; penalty. (1) A person commits the offense of employing or providing a vehicle to an unqualified driver if the person does any of the following:

(a) Employs another person for the purpose of engaging in a particular type of operation of a vehicle for which the person does not have an appropriate grant of driving

privileges from this state in the form of a license, driver permit, endorsement or statutory grant of driving privileges allowing the person to engage in the particular type of operation.

(b) Rents, leases or otherwise furnishes a motor vehicle owned or controlled by the person to any other person without first seeing the other person's license, driver permit or license with endorsement allowing the person, under the vehicle code, to operate the particular type of vehicle being furnished.

(2) The offense described in this section, employing or providing a vehicle to an unqualified driver, is a Class D traffic violation. [1985 c.608 §7; 1995 c.383 §10; 2003 c.14 §486]

807.620 Giving false information to police officer; penalty. (1) A person commits the offense of giving false information to a police officer if the person knowingly uses or gives a false or fictitious name, address or date of birth to any police officer who is enforcing motor vehicle laws.

(2) The offense described in this section, giving false information to a police officer, is a Class A misdemeanor. [1983 c.338 §343; 1985 c.16 §160; 1985 c.597 §22]

807.630 [1987 c.744 §9; repealed by 1989 c.636 §54]

MISCELLANEOUS

807.700 Notification to department as to released persons with mental retardation or mental illness who are licensed operators. (1) It shall be the duty of the superintendent of the hospital for persons with mental retardation or mental illness to notify the Department of Transportation as to released licensed operators who, in the opinion of the superintendent, should not drive because of their mental condition.

(2) Upon receipt of information submitted under this section, the department is subject to the provisions relating to this section under ORS 809.419. [1985 c.16 §436; 2003 c.402 §20; 2007 c.70 §328]

807.710 Reports of persons with cognitive or functional impairment; rules; forms. (1) For the purposes of this section:

(a) "Physician" means a person who holds a degree of Doctor of Medicine or Doctor of Osteopathic Medicine and is licensed under ORS 677.100 to 677.228 and a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under ORS chapter 685.

(b) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care.

(2) In consultation with medical experts and experts on cognitive or functional impairments, the Department of Transportation shall adopt rules requiring reporting and:

(a) Designating physicians and health care providers required to report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle.

(b) Designating the cognitive or functional impairments that are likely to affect a person's ability to safely operate a motor vehicle.

(3) Determinations regarding a person's ability to safely operate a motor vehicle may not be based solely on the diagnosis of a medical condition or cognitive or functional impairment, but must be based on the actual effect of that condition or impairment on the person's ability to safely operate a motor vehicle.

(4) Reports required by the department under this section shall be upon forms prescribed or provided by the department. Each report shall include the person's name, address, date of birth, sex and a description of how the person's current medical status affects the person's ability to safely operate a motor vehicle. The department shall consider this information in determining the person's eligibility for a driver license or driver permit.

(5) A designated physician or health care provider may at any time report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle, without regard to whether that report is required by rules of the department adopted under subsection (2) of this section. If the report is made in good faith, the physician or health care provider is immune from civil liability that might otherwise result from making the report. A designated physician or health care provider is immune from civil liability for failure to make a report under this section, without regard to whether that report is required by rules of the department adopted under subsection (2) of this section.

(6) Except as provided in ORS 802.240, reports made under this section are confidential and shall be used by the department only to determine the qualifications of persons to operate motor vehicles upon the highways. [1983 c.338 §872; 1999 c.770 §2; 2001 c.736 §1; 2003 c.462 §1; 2007 c.195 §2; 2007 c.434 §3; 2013 c.65 §1; 2017 c.409 §41]

807.720 Filing of death records with department. On or before the 15th day of each month, the Director of the Oregon Health Authority shall forward to the Department of Transportation a copy of the

death record of any persons within the jurisdiction of the Director of the Oregon Health Authority who died from a motor vehicle accident during the preceding calendar month. [1983 c.338 §871; 1985 c.16 §440; 2009 c.595 §1139; 2013 c.366 §85]

807.725 Issuance of fictitious driver licenses and identification cards; rules; fees. (1) If requested to do so by a law enforcement agency, the Department of Transportation may issue or renew a fictitious driver license or identification card for a law enforcement official for use in discharging the undercover criminal investigative duties of the law enforcement agency.

(2) The fees for issuance and renewal of a fictitious driver license or fictitious identification card issued under this section shall be the fees established for issuance and renewal of a driver license under ORS 807.370 or the fees established for issuance and renewal of an identification card under ORS 807.410.

(3) The department may determine by rule:

(a) What is considered a law enforcement agency for the purposes of this section; and

(b) The criteria for making a request under this section.

(4) The department may maintain a driving record under ORS 802.200 for a fictitious driver license or fictitious identification card issued under this section.

(5) All information submitted to and maintained by the department regarding the true identity of a law enforcement official under this section is confidential. The department may only disclose information regarding the true identity of a law enforcement official to a law enforcement agency upon request. [2009 c.258 §4; 2018 c.114 §8]

807.730 Issuance of limited term driver licenses, permits and identification cards; rules. (1) The Department of Transportation may issue or replace a limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card only for a person who provides proof, as determined by the department by rule, that the person is legally present in the United States on a temporary basis.

(2) A limited term driver license, limited term commercial driver license or limited term identification card is valid:

(a) During the applicant's authorized stay in the United States, but no longer than eight years from the date of issuance; or

(b) If there is no definite end to the authorized stay, for a period of one year.

(3) A limited term driver permit or a limited term commercial learner driver permit is valid:

(a) During the applicant's authorized stay in the United States, but no longer than the period of time for which a driver permit of the same type is issued by the department.

(b) If there is no definite end to the authorized stay, for a period of one year but no longer than the period of time for which a driver permit of the same type is issued by the department.

(4) A limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card may be renewed only upon presentation of valid documentation, as determined by the department by rule, that the status by which the applicant qualified for the limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card has been extended or is still in effect.

(5) A limited term driver license or limited term driver permit grants the same privileges as a driver license or driver permit.

(6) A limited term identification card shall bear a statement to the effect that the limited term identification card is not a license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only.

(7) A limited term commercial driver license or limited term commercial learner driver permit grants the same privileges as a commercial driver license or commercial learner driver permit.

(8) The department may issue a limited term commercial driver license or limited term commercial learner driver permit if the applicant is otherwise eligible for commercial driving privileges. The department may adopt rules describing eligibility requirements for limited term commercial driver licenses and limited term commercial learner driver permits.

(9) A limited term driver license, limited term commercial driver license or limited term identification card shall clearly indicate that it is a limited term driver license, limited term commercial driver license or limited term identification card and indicate the date on which it expires. [2008 c.1 §4; 2009 c.258 §1; 2017 c.306 §6; 2017 c.568 §19]

Note 1: The amendments to 807.730 by section 19, chapter 568, Oregon Laws 2017, become operative July 1, 2020. See section 21, chapter 568, Oregon Laws 2017. The text that is operative until July 1, 2020, is set forth for the user's convenience.

807.730. (1) The Department of Transportation may issue or replace a limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card only for a person who provides proof, as determined by the department by rule, that the person is legally present in the United States on a temporary basis.

(2) A limited term driver license, limited term commercial driver license or limited term identification card is valid:

(a) During the applicant's authorized stay in the United States, but no longer than eight years from the date of issuance; or

(b) If there is no definite end to the authorized stay, for a period of one year.

(3) A limited term driver permit or a limited term commercial learner driver permit is valid:

(a) During the applicant's authorized stay in the United States, but no longer than the period of time for which a driver permit of the same type is issued by the department.

(b) If there is no definite end to the authorized stay, for a period of one year but no longer than the period of time for which a driver permit of the same type is issued by the department.

(4) A limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card may be renewed only upon presentation of valid documentation, as determined by the department by rule, that the status by which the applicant qualified for the limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card has been extended or is still in effect.

(5) A limited term driver license or limited term driver permit grants the same privileges as a driver license or driver permit.

(6) A limited term identification card shall bear a statement to the effect that the limited term identification card is not a license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only.

(7) A limited term commercial driver license or limited term commercial learner driver permit grants the same privileges as a commercial driver license or commercial learner driver permit.

(8) The department may issue a limited term commercial driver license or limited term commercial learner driver permit if the applicant is otherwise eligible for commercial driving privileges. The department may adopt rules describing eligibility requirements for limited term commercial driver licenses and limited term commercial learner driver permits.

Note 2: The amendments to 807.730 by section 7, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

807.730. (1) The Department of Transportation may issue or replace a Real ID limited term driver license, Real ID limited term commercial driver license, Real ID limited term driver permit, limited term commercial learner driver permit, limited term commercial driver license that is not a Real ID or Real ID limited term identification card only for a person who provides proof, as determined by the department by rule, that the person has lawful status in the United States on a temporary basis.

(2) A Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID or Real ID limited term identification card is valid:

(a) During the applicant's authorized stay in the United States, but no longer than eight years from the date of issuance; or

(b) If there is no definite end to the authorized stay, for a period of one year.

(3) A Real ID limited term driver permit or a limited term commercial learner driver permit is valid:

(a) During the applicant's authorized stay in the United States, but no longer than the period of time for which a driver permit of the same type is issued by the department.

(b) If there is no definite end to the authorized stay, for a period of one year but no longer than the period of time for which a driver permit of the same type is issued by the department.

(4) A Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit or Real ID limited term identification card may be renewed only upon presentation of valid documentation, as determined by the department by rule, that the status by which the applicant qualified for the Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit or Real ID limited term identification card has been extended or is still in effect.

(5) A Real ID limited term driver license or Real ID limited term driver permit grants the same driving privileges as a driver license or driver permit.

(6) A Real ID limited term identification card shall bear a statement to the effect that the Real ID limited term identification card is not a license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only.

(7) A limited term commercial driver license, a Real ID limited term commercial driver license or limited term commercial learner driver permit grants the same privileges as a commercial driver license or commercial learner driver permit.

(8) The department may issue a Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID or limited term commercial learner driver permit if the applicant is otherwise eligible for commercial driving privileges. The department may adopt rules describing eligibility requirements for Real ID limited term commercial driver licenses, limited term commercial driver licenses that are not Real ID and limited term commercial learner driver permits.

(9) A Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit, limited term commercial learner driver permit or Real ID limited term identification card shall clearly indicate on the face of the card and in the machine readable zone that it is a Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit, limited term commercial learner driver permit or Real ID limited term identification card and indicate the date on which it expires.

Note: Sections 2 to 5, chapter 60, Oregon Laws 2018, provide:

Sec. 2. Section 3 of this 2018 Act is added to and made a part of the Oregon Vehicle Code. [2018 c.60 §2]

Sec. 3. (1) Notwithstanding ORS 807.021 and 807.730, a person is not required to provide proof of le-

gal presence in the United States when applying for a limited term identification card, a limited term driver license or a limited term driver permit if:

(a) The Department of Transportation previously issued a limited term identification card, a limited term driver license or a limited term driver permit to the applicant;

(b) The applicant presents to the department an Employment Authorization Document issued by the United States Citizenship and Immigration Services under category C33, A12 or C19; and

(c) The applicant's Employment Authorization Document expired on or after August 1, 2014.

(2) Notwithstanding ORS 807.022, the department may not verify the documents described in this section.

(3) Notwithstanding ORS 807.130, a limited term driver license issued or renewed under this section expires two years from the date of issuance. [2018 c.60 §3]

Sec. 4. Section 3, chapter 60, Oregon Laws 2018, is repealed on December 31, 2020. [2018 c.60 §4; 2019 c.701 §23]

Sec. 5. Section 3 of this 2018 Act applies to limited term identification cards, limited term driver licenses and limited term driver permits issued, renewed or replaced on or after July 1, 2018. [2018 c.60 §5]

807.735 Providing assistance to applicants for driver licenses, driver permits and identification cards. (1) Using existing resources, the Department of Transportation shall provide ombudsman services to applicants for a driver license, a driver permit or an identification card. An ombudsman shall assist applicants who are otherwise qualified for issuance, renewal or replacement of a driver license, a driver permit or an identification card but who are unable to produce the documentation required by the department under ORS 807.021 and 807.730.

(2) The department may not provide ombudsman services to an applicant unless the applicant certifies in writing that the applicant is, to the best of the applicant's knowledge, legally present in the United States. [2008 c.1 §34]

Note: 807.735 is repealed January 1, 2021. See sections 24, 25 and 26, chapter 701, Oregon Laws 2019.

Note: 807.735 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

807.745 Findings regarding personal information contained in driver licenses, driver permits and identification cards. The Legislative Assembly finds that:

(1) Oregon recognizes the importance of protecting the confidentiality and privacy of an individual's personal information contained in driver licenses, driver permits and identification cards.

(2) Machine-readable features found on driver licenses, driver permits and identification cards are intended to facilitate verification of age or identity, not to facilitate collection of personal information about individuals nor to facilitate the creation of private databases of transactional information associated with those individuals.

(3) Easy access to the information found on driver licenses, driver permits and identification cards facilitates the crime of identity theft, which is a major concern in Oregon. [2009 c.546 §1]

Note: 807.745 and 807.750 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

807.750 Restrictions on swiping driver licenses or identification cards. (1) As used in this section:

(a) "Driver license" means a license or permit issued by this state or any other jurisdiction as evidence of a grant of driving privileges.

(b) "Identification card" means the card issued under ORS 807.400 or a comparable provision in another state.

(c) "Personal information" means an individual's name, address, date of birth, photograph, fingerprint, biometric data, driver license number, identification card number or any other unique personal identifier or number.

(d) "Private entity" means any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any other legal entity or any natural person.

(e) "Swipe" means the act of passing a driver license or identification card through a device that is capable of deciphering, in an electronically readable format, the information electronically encoded in a magnetic strip or bar code on the driver license or identification card.

(2) Except as provided in subsection (6) of this section, a private entity may not swipe an individual's driver license or identification card, except for the following purposes:

(a) To verify the authenticity of a driver license or identification card or to verify the identity of the individual if the individual pays for a good or service with a method other than cash, returns an item or requests a refund.

(b) To verify the individual's age when providing an age-restricted good or service to any person about whom there is any reasonable doubt of the person's having reached 21 years of age.

(c) To prevent fraud or other criminal activity if an individual returns an item or requests a refund and the private entity uses a fraud prevention service company or system.

(d) To transmit information to a check services company for the purpose of approving negotiable instruments, electronic funds transfers or similar methods of payment.

(3) A private entity that swipes an individual's driver license or identification card under subsection (2)(a) or (b) of this section may not store, sell or share personal information collected from swiping the driver license or identification card.

(4) A private entity that swipes an individual's driver license or identification card under subsection (2)(c) or (d) of this section may store or share the following information collected from swiping an individual's driver license or identification card for the purpose of preventing fraud or other criminal activity against the private entity:

(a) Name;

(b) Address;

(c) Date of birth; and

(d) Driver license number or identification card number.

(5)(a) A person other than an entity regulated by the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., who receives personal information from a private entity under subsection (4) of this section may use the personal information received only to prevent fraud or other criminal activity against the private entity that provided the personal information.

(b) A person who is regulated by the federal Fair Credit Reporting Act and who receives personal information from a private entity under subsection (4) of this section may use or provide the personal information received only to effect, administer or enforce a transaction or prevent fraud or other criminal activity, if the person provides or receives personal information under contract from the private entity.

(6)(a) Subject to the provisions of this subsection, a private entity that is a commercial radio service provider that provides service nationally and that is subject to the Telephone Records and Privacy Protection Act of 2006 (18 U.S.C. 1039) may swipe an individual's driver license or identification card if the entity obtains permission from the individual to swipe the individual's driver license or identification card.

(b) The private entity may swipe the individual's driver license or identification card only for the purpose of establishing or maintaining a contract between the private entity and the individual. Information collected by swiping an individual's driver license or identification card for the establishment or maintenance of a contract shall be limited to the following information from the individual:

(A) Name;

(B) Address;

(C) Date of birth; and

(D) Driver license number or identification card number.

(c) If the individual does not want the private entity to swipe the individual's driver license or identification card, the private entity may manually collect the following information from the individual:

(A) Name;

(B) Address;

(C) Date of birth; and

(D) Driver license number or identification card number.

(d) The private entity may not withhold the provision of goods or services solely as a result of the individual requesting the collection of the following information from the individual through manual means:

(A) Name;

(B) Address;

(C) Date of birth; and

(D) Driver license number or identification card number.

(7) A governmental entity may swipe an individual's driver license or identification card only if:

(a) The individual knowingly makes the driver license or identification card available to the governmental entity;

(b) The governmental entity lawfully confiscates the driver license or identification card;

(c) The governmental entity is providing emergency assistance to the individual who is unconscious or otherwise unable to make the driver license or identification card available; or

(d) A court rule requires swiping of the driver license or identification card to facilitate accurate linking of court records pertaining to the individual.

(8) In addition to any other remedy provided by law, an individual may bring an action to recover actual damages or $1,000, whichever is greater, and to obtain equitable relief, if equitable relief is available, against an entity that swipes, stores, shares, sells or otherwise uses the individual's personal information in violation of this section. A court shall award a prevailing plaintiff reasonable costs and attorney fees. If a court finds that a violation of this section was willful or knowing, the court may increase

the amount of the award to no more than three times the amount otherwise available.

(9) Any waiver of a provision of this section is contrary to public policy and is void and unenforceable. [2009 c.546 §2]

Note: See note under 807.745.

807.760 Prohibition on use of license or permit as evidence of citizenship or immigration status. A driver license, driver permit or identification card that is not a Real ID may not be used as evidence of the holder's citizenship or immigration status for any purpose. [2019 c.701 §9]

Note: 807.760 becomes operative January 1, 2021. See section 26, chapter 701, Oregon Laws 2019.

Note: Sections 23a and 23b, chapter 701, Oregon Laws 2019, provide:

Sec. 23a. (1) The Department of Transportation shall conduct an outreach program to educate driver license and driver permit applicants and the general public about the operation of sections 9 [807.760] and 11 [659A.343] of this 2019 Act, the amendments to ORS 97.953, 659A.885, 802.195, 802.200, 807.021, 807.040, 807.130, 807.173, 807.285, 807.310, 807.400, 807.405 and 807.730 by sections 1 to 7 and 12 to 22 of this 2019 Act and the repeal of ORS 807.735 by section 24 of this 2019 Act as of the operative date specified in section 26 of this 2019 Act [January 1, 2021]. The program must:

(a) In collaboration with impacted communities, develop a communication strategy for dissemination of information using a variety of media sources, state agencies, associations and organizations.

(b) Effectively communicate with specific populations in a manner that is culturally and linguistically appropriate.

(c) Provide communications, including educational materials, in English and in languages other than English that are most commonly spoken by the residents of this state.

(2) To carry out the provisions of this section, the department may enter into a contract with a business or an organization. [2019 c.701 §23a]

Sec. 23b. Section 23a of this 2019 Act is repealed on January 2, 2023. [2019 c.701 §23b]

CHAPTER 808

[Reserved for expansion]

Chapter 809

2019 EDITION

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SUSPENSION AND CANCELLATION OF REGISTRATIONS AND TITLES

809.010 Court-ordered suspension. A court shall order the Department of Transportation to suspend the registration of a motor vehicle required to be registered by the department upon conviction of the traffic offenses described in this section. The requirement to order the suspension of vehicle registration under this section is subject to all of the following:

(1) The court shall order the department to suspend the registration under this section when a person is convicted:

(a) Of driving a motor vehicle while the person's license is suspended or revoked in violation of ORS 811.175 or 811.182; or

(b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.

(2) The registration of the following vehicles shall be ordered suspended under this section:

(a) Any vehicle required to be registered by the department of which the convicted person is the owner.

(b) Any vehicle required to be registered by the department which the convicted person is operating at the time of the person's arrest.

(3) A court may not issue an order to suspend the registration under this section for more than 120 days.

(4) Upon issuing an order to suspend the registration under this section, a court shall issue a copy of the order to the department for suspension according to ORS 809.020.

(5) The court may order, under this section, the department to suspend the registration of a motor vehicle of which the convicted person is not the owner only if the court is satisfied by clear and convincing evidence that the owner knew or had good reason to know that the convicted person:

(a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or

(b) Was operating the vehicle while under the influence of intoxicants. [1983 c.338 §386; 1985 c.16 §202; 1985 c.173 §6; 1987 c.730 §13; 1991 c.407 §30]

809.020 Response to court-ordered suspension. When the Department of Transportation receives an order from a court to suspend the registration of a vehicle, the department shall respond to the order as provided in this section based on the type of suspension. If the court orders the suspension of registration under:

(1) ORS 809.120, the department shall impose the suspension as ordered by the court.

(2) ORS 809.010, the department shall forthwith suspend the registration and require the owner to return the registration card and plates. When the department suspends a registration under this subsection the department shall:

(a) Destroy the registration card and plates; and

(b) Issue a new registration card and new plates to the owner upon expiration of the period specified by the court in its order upon payment by the owner to the department of a restoration fee established under ORS 809.030. The department may not charge the owner any fee for the card and plates other than the restoration fee.

(3) ORS 809.130, the department, after opportunity for hearing under ORS 809.040, shall suspend the registration of the person's employer's vehicles, until notified by the court to reinstate the registration and until the department receives proof of compliance with future responsibility filings from the employer, if the department determines that all of the following apply:

(a) A judgment of the type described under ORS 806.040 was rendered against the person.

(b) The judgment has remained unsettled as described by ORS 809.470 for 60 days.

(c) The judgment continues to be unsettled.

(d) At the time of the accident that is the source of the judgment, the employee was driving, with the permission of the employer, a vehicle owned, operated or leased by the employer. [1983 c.338 §284; 1985 c.16 §116; 1999 c.359 §2; 2011 c.355 §28]

809.030 Restoration fee. The restoration fee for registration suspended under ORS 809.020 based on a court order under ORS 809.010 is $10. [1983 c.338 §292]

809.040 Hearing; notice; judicial review. (1) When a hearing is required under ORS 809.020 or 809.050, the Department of Transportation shall afford a person an opportunity of a hearing before the department suspends or revokes vehicle registration. A hearing described by this subsection is subject to all of the following:

(a) Before the hearing, the department shall provide the person with notice meeting the requirements under ORS 809.430.

(b) The hearing, if requested, shall be in the county wherein the person resides unless the person and the department agree to hold it elsewhere.

(c) The hearing shall be conducted as a contested case in accordance with ORS chapter 183.

(d) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(2) The hearing requirements under this section do not apply in any case where the department finds a serious danger to the public safety and sets forth specific reasons for such finding.

(3) Judicial review of orders suspending or revoking registration under this section shall be as provided in ORS chapter 183. [1983 c.338 §283; 1985 c.16 §115; 1985 c.401 §12; 1999 c.849 §§184,185; 2003 c.75 §65]

809.050 Revocation or suspension of registration of employer for failure to make future responsibility filing. (1) If an employer is required to make future responsibility filings by ORS 806.200 and fails to make the filings, the Department of Transportation shall revoke or suspend the vehicle registration of vehicles owned by the employer until the owner:

(a) Makes accident reports as required under ORS 811.730; and

(b) Makes future responsibility filings.

(2) The department shall provide an opportunity for a hearing described under ORS 809.040 before suspending or revoking registration under this section. [1983 c.338 §286]

809.060 [1983 c.338 §287; 1985 c.16 §118; 1993 c.751 §104; renumbered 809.135 in 2005]

809.070 [1983 c.338 §289; 1985 c.16 §119; 1991 c.459 §438j; repealed by 1993 c.751 §106]

809.080 Failure to return suspended registration; penalty. (1) A person commits the offense of failure to return suspended registration if the person has vehicle registration suspended and the person fails to immediately return to the Department of Transportation any registration plates or registration card issued to the person under the suspended registration.

(2) If any person fails to return registration plates or cards as required by this section, the department may request any peace officer to secure possession thereof and return it to the department.

(3) The offense described in this section, failure to return suspended registration, is a Class C misdemeanor. [1983 c.338 §291; 1985 c.16 §120; 1985 c.393 §6; 1985 c.401 §14]

809.090 Cancellation of registration or title for failure to qualify; notice; rules. (1) The Department of Transportation may cancel the registration or title or both of a vehicle if the department determines that:

(a) A holder is not entitled to the registration or title or both; or

(b) All fees applicable to a vehicle, payable to the department under any provision of law have not been paid.

(2) Before cancellation under this section, the department must give opportunity for a hearing upon 10 days' notice. The department shall serve notice in a manner determined by the department by rule. [1983 c.338 §288; 1991 c.249 §73; 1993 c.233 §53; 1999 c.1009 §3; 2019 c.312 §28]

Note: The amendments to 809.090 by section 28, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, is set forth for the user's convenience.

809.090. (1) The Department of Transportation may cancel the registration or title or both of a vehicle if the department determines that:

(a) A holder is not entitled thereto; or

(b) All fees applicable to a vehicle, payable to the department under any provision of law have not been paid.

(2) Before cancellation under this section the department must give opportunity for a hearing upon 10 days' notice. The notice shall be served in person or by first class mail.

809.095 Cancellation of registration for false certification of compliance with financial responsibility requirements. (1) The Department of Transportation may cancel the registration of, or right to apply for registration for, any vehicle owned by a person if the person falsely certifies compliance with financial responsibility requirements, submits to the department unsatisfactory proof of such compliance or otherwise fails to comply with financial responsibility requirements.

(2) Cancellation under this section shall continue until the person complies with any applicable financial responsibility filing requirements. [1993 c.751 §103]

809.100 Hearing on proposed cancellation or refusal; judicial review. (1) When the Department of Transportation proposes to cancel or refuse to issue or renew title or registration, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under this section shall be in accordance with ORS chapter 183. [1983 c.338 §282; 1985 c.16 §114; 1985 c.401 §11; 1993 c.233 §54]

809.110 Failure to surrender canceled registration or title; penalty. (1) A person commits the offense of failure to surrender canceled registration or title if the person holds any evidence of registration or any evidence of title issued by the Department of Transportation that the department has canceled and the person does not surrender the evidence of registration or title to the department.

(2) The offense described in this section, failure to surrender canceled registration or title, is a Class A misdemeanor. [1983 c.338 §290; 1993 c.233 §55]

REGISTRATION, DRIVING PRIVILEGES OR IDENTIFICATION CARD

809.120 Court-ordered suspension of registration or driving privileges for weight violation. (1) In addition to any other punishment imposed under ORS 818.040, a convicting court has authority to order the suspension of the driving privileges of the operator of the vehicle used to violate ORS 818.040 or the registration of the vehicle if the vehicle is required to be registered by the Department of Transportation. The authority of a court to order the suspension of driving privileges or registration under this section is subject to the following:

(a) Subject to paragraph (b) of this subsection, the court may only order suspension for a period of up to 90 days.

(b) For a second or subsequent violation of ORS 818.040, within one year after the first conviction, the court shall order the suspension for not less than 30 days nor more than 90 days.

(2) Upon ordering a suspension under this section, a court shall secure the license, driver permit or registration plates ordered suspended and shall immediately forward them to the department with the order of suspension as provided under ORS 809.275.

(3) Upon receipt of an order under this section, the department shall proceed as provided under ORS 809.020 or 809.280. [1983 c.338 §390; 1985 c.16 §207; 1991 c.407 §31; 2011 c.355 §3]

809.130 Suspension or revocation of registration or driving privileges for unsettled judgment. (1) If a court notifies the Department of Transportation under this section that a judgment remains unsettled as described by ORS 809.470, the department must initiate action to determine whether to suspend or revoke driving privileges under ORS 809.415 or vehicle registration of the employer under ORS 809.020. A court shall immediately give the department notice of an unsettled judgment under this section if:

(a) A judgment of the type described under ORS 806.040 is rendered against a person by a court of this state;

(b) The person fails within 60 days to settle the judgment in the manner required under ORS 809.470; and

(c) The judgment creditor or the judgment creditor's attorney makes a written request for forwarding to the department a certificate stating the judgment has not been settled as described in ORS 809.470.

(2) A court that has given the department notice of an unsettled judgment under this section shall immediately forward to the department a certificate stating that the judgment is appropriately settled and describing the judgment and parties sufficiently for identification if:

(a) The judgment is settled in the manner required under ORS 809.470; and

(b) The judgment debtor or the judgment debtor's attorney makes a written request for forwarding to the department a certificate stating the judgment has been settled as described in ORS 809.470.

(3) The notice made to the department under this section shall be given by the clerk of the court or, if the court has no clerk, by the judge. [1983 c.338 §391; 1985 c.16 §208; 2003 c.402 §21]

809.135 Refusal to issue, revocation or suspension of identification card, registration or title for failure to use same name. The Department of Transportation may refuse to issue, may revoke or may suspend any identification card, title or registration issued by the department or for which application is made to the department if the department determines that the person issued or applying for the identification card, title or registration has used one name in one application and another name in any other application. [Formerly 809.060; 2018 c.76 §25]

809.140 Administrative review of suspension, revocation or cancellation of identification card, registration or driving privileges. (1) Unless otherwise specifically provided by law, a person whose identification card, vehicle registration or driving privileges are suspended, revoked or canceled by the Department of Transportation is entitled to administrative review of the action rather than to a formal hearing by the department if the suspension, revocation or cancellation is based upon:

(a) A conviction;

(b) Notification from a court that the court has ordered suspension, revocation or cancellation; or

(c) Notice from a court to the department to suspend, cancel or revoke.

(2) Actions by the department based on grounds other than those specified in subsection (1) of this section may be subject to administrative review rather than a formal hearing if specifically provided by law. [1991 c.702 §2; 1993 c.627 §1; 2011 c.355 §4]

809.200 [1983 c.338 §389; repealed by 1987 c.730 §23]

DRIVING PRIVILEGES

(Court-Ordered or Recommended Restrictions, Suspensions, Revocations or Denials)

809.210 Suspension or restriction of driving privileges for failure to pay fine or obey court order; exceptions. (1) A court may do any of the following if the defendant is convicted of any traffic offense and fails or refuses to pay a fine imposed by the court or to comply with any condition upon which payment of the fine or any part of it was suspended:

(a) Issue a notice of suspension to the Department of Transportation that directs the department to implement procedures under ORS 809.416.

(b) Order a defendant's driving privileges restricted.

(2) The authority granted in this section is in addition to or instead of any other method authorized by law for enforcing a court order.

(3) If a court places restrictions on driving privileges under this section:

(a) The court shall immediately advise the department of the restrictions.

(b) Upon removal of such restriction, the court shall notify the department that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The department shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If the court issues a notice of suspension that directs the department to implement procedures under ORS 809.416 as provided under this section:

(a) And if, at any time within the period of suspension under this section, a person pays the fine, has begun making payments according to the payment schedule established with the court or has obeyed the order of the court, the court shall immediately send to the department a notice of reinstatement. The notice of suspension may be reissued if the person ceases making payments before the fine is paid in full. The reissuance does not extend the original period of suspension.

(b) The department shall take action on the suspension as provided under ORS 809.416.

(5)(a) At any time after the court issues a notice of suspension under this section, the person whose driving privileges have been suspended may seek reinstatement with the court if the person is enrolled in a preapprenticeship program, as defined in ORS 660.010, or is a registered apprentice under ORS 660.020. The court shall issue a notice of reinstatement of the person's driving privileges if the person provides the court with a form that includes verification from the Bureau of Labor and Industries that the person is enrolled in a preapprenticeship program or is a registered apprentice.

(b) The bureau shall develop the form prescribed in paragraph (a) of this subsection. The form must include:

(A) The name of the person who is enrolled in a preapprenticeship program or registered as an apprentice;

(B) A statement from the person's program, certifying that the person is enrolled in the preapprenticeship program or is a registered apprentice;

(C) The date on which the person is scheduled to complete the program;

(D) For a person who is enrolled in a preapprenticeship program, a statement that the program will notify the bureau of the registration of the person as an apprentice under ORS 660.020 after completion of the person's preapprenticeship program or notify the bureau of the person's failure to register; and

(E) A statement that the program will notify the court if the person fails to complete the program or fails to register as an apprentice under ORS 660.020 after completion of a preapprenticeship program.

(c) Upon the request of a person whose driving privileges have been suspended under this section, the bureau shall seek to verify that the person is enrolled in a preapprenticeship program or is registered as an apprentice. If the bureau verifies that the person is enrolled in a preapprenticeship program or is registered as an apprentice, the bureau shall include the verification on the form described in this subsection.

(d) If the court receives a notice from the program that the person has failed to complete the program, or failed to register as an apprentice under ORS 660.020 after completion of a preapprenticeship program, the court shall reissue the notice of suspension. The reissuance does not extend the original period of suspension.

(6) A person whose driving privileges are reinstated under subsection (5) of this section shall establish a payment schedule with the court and begin making payments within six months after completing a preapprentice-

ship program and apprenticeship program, as defined in ORS 660.010, or six months after completing an apprenticeship program if the person was never enrolled in a preapprenticeship program. The court shall reissue the notice of suspension if the person does not establish a payment schedule within the time required under this subsection. The reissuance does not extend the original period of suspension.

(7) A court may not issue a notice of suspension under this section that directs the department to implement procedures under ORS 809.416 for failure to pay a fine relating to any parking offense, pedestrian offense or bicycling offense.

(8) A notification by a court to the department under this section shall be in a form prescribed by the department. [1983 c.338 §387; 1985 c.16 §203; 1985 c.669 §13; 1991 c.702 §5; 1993 c.751 §54; 2013 c.432 §§1,8]

809.220 Failure to appear; suspension or other procedures. This section establishes procedures that are applicable if a person fails to appear on a citation for a traffic offense or fails to appear on a citation for a violation of ORS 471.430 or 475B.316. All of the following apply to this section:

(1) If a defendant fails to make any appearance required by the court or by law in a proceeding charging the defendant with a traffic offense or with a violation of ORS 471.430 or 475B.316, the court:

(a) Shall issue notice to the Department of Transportation to suspend for failure to appear if the defendant is charged with a traffic crime or with a violation of ORS 471.430 or 475B.316. If a court issues notice under this paragraph, the department shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the department to implement procedures under ORS 809.416 if the defendant is charged with a traffic violation. If a court issues notice under this paragraph, the department shall implement procedures under ORS 809.416.

(2) In any notice to the department under this section, a court shall certify that the defendant failed to appear in the proceedings in the manner required by the court or by law.

(3) At any time within 10 years from the date the traffic offense or violation of ORS 471.430 or 475B.316 occurred, a court shall give a second notice to the department to reinstate the person's suspended driving privileges resulting from the original notice if any of the following occur:

(a) The fine for the offense is paid or the defendant has begun making payments.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the person's suspended driving privileges should be reinstated for good cause.

(4) The court may reissue a notice of suspension if the person ceases making payments before the fine is paid in full. The reissuance does not extend the original period of suspension.

(5) Notifications by a court to the department under this section shall be in a form prescribed by the department.

(6) A court may not notify the department under this section for failure to appear on any parking, pedestrian or bicyclist offense. [1983 c.338 §393; 1985 c.16 §209; 1985 c.669 §15; 1989 c.161 §1; 1991 c.702 §6; 1995 c.142 §3; 1999 c.1051 §281; 2001 c.817 §1; 2001 c.823 §27; 2007 c.127 §3; 2011 c.355 §5; 2011 c.597 §113; 2013 c.432 §2; 2017 c.20 §8]

809.230 Court suspension or revocation of nonresident driving privileges. A court may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges of a resident of this state may be suspended or revoked. [1983 c.338 §394]

809.235 Permanent revocation of driving privileges upon conviction of certain crimes; restoration of privileges. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in the first or second degree resulting from the operation of a motor vehicle, criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle.

(b) The court shall order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010 or if the person is convicted for a third or subsequent time of any of the following offenses in any combination:

(A) Driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

(ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

(B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of intoxicating liquor,

cannabis, a controlled substance, an inhalant or any combination thereof.

(C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.

(2)(a) A person whose driving privileges are revoked as described in subsection (1) of this section may file a petition in the circuit court of the county in which the person's driving privileges were revoked for an order restoring the person's driving privileges. A petition may be filed under this subsection no sooner than 10 years after the person is:

(A) Released on parole or post-prison supervision for the crime for which the person's driving privileges were revoked and any other crimes arising out of the same criminal episode;

(B) Sentenced to probation for the crime for which the person's driving privileges were revoked, unless the probation is revoked, in which case the petition may be filed no sooner than 10 years after the date probation is revoked; or

(C) Sentenced for the crime for which the person's driving privileges were revoked, if no other provision of this paragraph applies.

(b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the crime for which the person was convicted the person is convicted of a criminal offense involving a motor vehicle, the person may file a petition to restore driving privileges as described in paragraph (a) of this subsection no sooner than 10 years from the date of the most recent conviction involving a motor vehicle.

(c) The district attorney of the county in which the person's driving privileges were revoked shall be named and served as the respondent in the petition.

(3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this section. In determining whether to grant the petition, the court shall consider:

(a) The nature of the offense for which driving privileges were revoked.

(b) The degree of violence involved in the offense.

(c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that resulted in the revocation.

(d) The recommendation of the person's parole officer, which shall be based in part on a psychological evaluation ordered by the court to determine whether the person is presently a threat to the safety of the public.

(e) Any other relevant factors.

(4) The court shall order a petitioner's driving privileges restored if, after a hearing described in subsection (3) of this section, the court finds by clear and convincing evidence that the petitioner:

(a) Is rehabilitated;

(b) Does not pose a threat to the safety of the public; and

(c) If the sentence for the crime for which the petitioner's driving privileges were revoked required the petitioner to complete an alcohol or drug treatment program, has completed an alcohol or drug treatment program in a facility approved by the Director of the Oregon Health Authority or a similar program in another jurisdiction.

(5) Upon receiving a court order to restore a person's driving privileges, the department may reinstate driving privileges in accordance with ORS 809.390, except that the department may not reinstate driving privileges of any person whose privileges are revoked under this section until the person complies with future responsibility filings. [1993 c.761 §2; 1995 c.661 §2; 2001 c.786 §1; 2003 c.346 §2; 2003 c.402 §22; 2005 c.436 §1; 2007 c.879 §4; 2009 c.320 §1; 2011 c.355 §12; 2011 c.554 §1; 2017 c.21 §78]

809.240 Court-ordered suspension or revocation; taking possession of license or permit; temporary permit. (1) If a person is convicted of an offense that will result in mandatory suspension or revocation under ORS 809.409, 809.411, 809.510 to 809.545 or 813.400 or any other law requiring suspension or revocation of driving privileges upon conviction of an offense, the trial judge shall:

(a) Order the revocation or suspension at the time of conviction for the required period; and

(b) Comply with the requirements under ORS 809.275 to take possession of the license or driver permit of the person.

(2) When necessary to give full effect to this section, a court shall issue a temporary driver permit under ORS 807.320. [1983 c.338 §395; 1985 c.16 §210; 1991 c.185 §5; 2003 c.402 §23; 2011 c.355 §29; 2013 c.237 §15]

809.250 [1983 c.338 §396; 1985 c.669 §14; 1987 c.730 §14; 1993 c.751 §55; renumbered 809.275 in 2005]

809.260 Court-ordered suspension of driving privileges of juvenile. (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, at the

time of committing any offense described in subsection (2) of this section, is determined by a juvenile court to have committed one of the offenses described in subsection (2) of this section, the court may order suspension of the person's driving privileges upon:

(a) The person's second or subsequent adjudication for an offense described in subsection (2) of this section;

(b) The person's first adjudication if the person has previously entered into a formal accountability agreement under ORS 419C.230 for an offense described in subsection (2) of this section; or

(c) The person's first adjudication if the offense involved the operation of a motor vehicle.

(2) Subsection (1) of this section applies to any offense involving the delivery, manufacture or possession of controlled substances, or any offense described in ORS 475B.341, 475B.346 or 475B.349.

(3) Whenever a person who is 20 years of age or younger, but not younger than 13 years of age, at the time of committing any offense described in subsection (4) of this section, is convicted or determined by a juvenile court to have committed one of the offenses described in subsection (4) of this section, the court may order suspension of the person's driving privileges upon:

(a) The person's second or subsequent conviction or adjudication for an offense described in subsection (4) of this section;

(b) The person's first conviction or adjudication if the person has previously entered into a formal accountability agreement under ORS 419C.230 for an offense described in subsection (4) of this section; or

(c) The person's first conviction or adjudication if the offense involved the operation of a motor vehicle.

(4) Subsection (3) of this section applies to any offense involving the possession, use or abuse of alcohol or cannabis.

(5) If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

(6) Upon receipt of an order under this section, the department shall take action as directed under ORS 809.280. [1985 c.16 §206; 1991 c.835 §3; 1993 c.625 §6; 1999 c.1051 §88; 2007 c.359 §1; 2009 c.228 §2; 2011 c.355 §7; 2017 c.20 §9; 2017 c.21 §77; 2018 c.76 §26]

809.265 [1991 c.835 §2; 1999 c.619 §7; 1999 c.1051 §139; 2011 c.355 §8; 2013 c.592 §1; 2016 c.24 §61; repealed by 2018 c.76 §17]

(Additional Authority of Court)

809.267 Additional fee upon notice of suspension or restriction. A court shall add a $15 fee to the judgment in any case in which the court gives notice to the Department of Transportation of the suspension or restriction of a defendant's driving privileges. The fee shall be added to the judgment without further notice to the defendant or further order of the court. This section applies to suspensions or restrictions ordered by a court for failure of a person to comply with a court order or with any conditions imposed by the court, for failure to pay a fine or for failure to appear as required by ORS 153.061. [1995 c.142 §2; 1999 c.1051 §140; 2001 c.823 §26]

809.270 Driver improvement course; enforcement by suspension or restriction of privileges. (1) A court may require that a defendant convicted of a traffic offense successfully complete, within a time fixed by the judge, a defensive driving or other appropriate driver improvement course conducted by the Department of Transportation or any other rehabilitative program and may use the suspension or restriction of the person's driving privileges or right to apply for driving privileges to enforce the requirement by ordering:

(a) The suspension until the defendant successfully completes the program; or

(b) The suspension or restriction if the defendant fails to successfully complete the program.

(2) The authority granted under this section is in addition to any fine or imprisonment authorized by law, including probation and suspension of imposition or execution of any sentence upon conditions ordered by the court.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the department of the restrictions in writing.

(b) Upon removal of such restrictions, the court shall notify the department in writing that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The department shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If suspension is ordered under this section:

(a) The court shall so notify the department and the department shall impose the suspension of the driving privileges as provided under ORS 809.280.

(b) The court shall notify the department of reinstatement after any suspension ordered under this section.

(c) The department shall take action on the suspension or reinstatement as provided under ORS 809.280.

(d) The judge shall comply with the requirements under ORS 809.275 to take possession of the license or permit of the person. [1983 c.338 §388; 1985 c.16 §204; 1993 c.18 §169]

(Procedures Following Court Suspension or Revocation)

809.275 Court to take possession of license or permit; effective date of suspension or revocation. (1) A court shall take immediate possession of any license or driver permit held by a defendant that is issued by any jurisdiction if the court orders a suspension or revocation under ORS 165.805, 471.430, 809.120, 809.235, 809.240, 809.260, 809.270, 811.109 or 811.135.

(2) Upon taking possession of a license or permit under this section, a court shall immediately forward to the Department of Transportation the license or permit and a copy of the suspension or revocation order or other information satisfactory to the department and to the State Court Administrator.

(3) A suspension or revocation of driving privileges becomes effective on the date a court takes possession of a license or permit under this section or orders the suspension or revocation.

(4) The department is not required to provide further notice of a suspension or revocation ordered by the court.

(5) Nothing in this section requires a court to take additional action, after the conclusion of the sentencing hearing, to secure the driver license or driver permit. [Formerly 809.250; 2011 c.355 §9; 2018 c.76 §27]

809.280 Department procedures following court order of suspension or revocation; length of suspension or revocation. (1) Upon receipt of a court order under ORS 809.270, the Department of Transportation shall suspend the person's driving privileges. The suspension shall remain in effect until the department is notified by the court that the suspension is ended, except that, if the department is ordered to automatically reinstate the driving privileges upon the successful completion of a program, the department shall do so and shall notify the judge that the person has complied with the order of the judge.

(2) Upon receipt of a court order under ORS 809.120, the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 90 days.

(3) Upon receipt of a court notice under ORS 809.130 of an unsettled judgment, the department shall suspend the person's driving privileges and, subject to any other requirements of law, reinstate the driving privileges upon appropriate notification from the court under ORS 809.130, except that the department shall only impose the suspension after the department has determined that:

(a) The judgment was rendered against the person;

(b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and

(c) The judgment continues to be unsettled as described in ORS 809.470.

(4) Upon receipt of a court notice under ORS 419C.472 or 809.220, the department shall suspend the person's driving privileges for an indefinite period. The department shall reinstate driving privileges that have been suspended under this subsection upon notification by the court or upon the elapse of 10 years from the date the traffic offense or violation of ORS 471.430 occurred, whichever comes first. The department may not suspend any driving privileges under this subsection for a person's failure to appear on a parking, pedestrian or bicyclist offense.

(5) Upon receipt of a court notice under ORS 810.310, the department shall suspend the person's driving privileges for an indefinite period. The department shall reinstate driving privileges that have been suspended under this subsection upon notification by the court or upon the lapse of 10 years from the date of suspension, whichever comes first.

(6) Upon receipt of a court order under ORS 809.260, the department shall suspend the person's driving privileges as follows:

(a) Upon receipt of the first order suspending driving privileges, the department shall suspend the person's driving privileges for one year, or until the person reaches 17 years of age, whichever is longer.

(b) Upon receipt of a second or subsequent order suspending driving privileges, the department shall suspend the person's driving privileges for one year or until the person reaches 18 years of age, whichever is longer.

(7) If the department receives notice from a court that it has withdrawn an order issued under ORS 809.260, the department shall immediately reinstate any driving privileges that have been suspended under subsection (6) of this section because of the issuance of the order.

(8) Upon receipt of a court order under ORS 165.805 or 471.430, the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed one year.

(9) Upon receipt of a court order under ORS 809.235, the department shall permanently revoke the person's driving privileges. The revocation shall remain in effect until the department is notified by a court that the person's driving privileges have been ordered restored.

(10) When a court orders suspension of driving privileges under ORS 811.109 (4), the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 30 days.

(11) When a court orders suspension of driving privileges under ORS 811.109 (5), the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for not less than 30 days and not more than 90 days.

(12) Upon receipt of a court order under ORS 811.135, the department shall suspend the person's driving privileges for one year. [1983 c.338 §362; 1985 c.16 §177; 1985 c.597 §23; 1985 c.669 §12; 1987 c.730 §15; 1991 c.835 §4; 1991 c.860 §3; 1993 c.751 §57; 1993 c.761 §3; 1999 c.359 §3; 1999 c.770 §4; 2001 c.817 §8; 2005 c.491 §2; 2007 c.127 §4; 2007 c.784 §4; 2011 c.355 §1; 2013 c.432 §5; 2018 c.76 §28]

809.290 [1985 c.669 §6; 1991 c.702 §7; 1993 c.751 §58; 2003 c.402 §24; renumbered 809.416 in 2005]

809.300 [1985 c.669 §7; repealed by 1991 c.702 §20]

(Cancellation, Refusal to Issue, Suspension or Revocation)

809.310 Cancellation or suspension of driving privileges; grounds; surrender of license or permit; duration; reissuance of privileges. (1) The Department of Transportation may cancel any driving privileges upon determining that the person is not entitled to the driving privileges under the vehicle code. The department may reissue driving privileges canceled under this subsection when the applicant has satisfied all requirements for the driving privileges sought.

(2) The department may cancel any driver license or permit that contains any error or defect or that is found to have been issued on the basis of false information given to the department. Cancellation under this subsection is in addition to any suspension of driving privileges authorized for the same conduct.

(3) The department may suspend any driving privileges or right to apply for privileges or any identification card or right to apply for a card upon determining that the person issued or applying for the driving privileges or identification card has committed any of the following acts:

(a) Failed to give the required or correct information in the application for the driving privileges or for an identification card, in violation of ORS 807.430 or 807.530.

(b) Committed false swearing in making application for the driving privileges in violation of ORS 807.520.

(c) Used an invalid license or identification card in violation of ORS 807.430 or 807.580.

(d) Permitted misuse of license, permit or identification card in violation of ORS 807.430 or 807.590.

(e) Used the license, permit or identification card of another in violation of ORS 807.430 or 807.600.

(f) Produced identification cards, licenses, permits, forms or camera cards in violation of ORS 807.500.

(4) Upon suspension or cancellation of driving privileges under this section, a person whose privileges are suspended or canceled shall surrender to the department any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

(5) To obtain driving privileges after the period of suspension or cancellation under this section, a person must reapply for driving privileges in the manner established by law. [1983 c.338 §345; 1985 c.393 §8; 1987 c.272 §1; 1993 c.393 §6; 2018 c.76 §29]

809.312 Reissuance of privileges after suspension for submitting false information. (1) A person whose driving privileges or right to apply for driving privileges or whose identification card or right to apply

for an identification card has been suspended for one of the reasons specified in subsection (2) of this section may request that the person's driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card be reinstated after the Department of Transportation determines the criteria are met under subsection (4) of this section.

(2) This section applies to suspensions imposed under:

(a) ORS 809.310 (3)(a);

(b) ORS 809.310 (3)(b); and

(c) ORS 809.415 (5) for committing an act that constitutes an offense described in ORS 809.310 (3)(a) or (b).

(3) To make a request under subsection (1) of this section, the person must provide sufficient proof for the department to make the determinations required in subsection (4) of this section. The department shall provide an administrative review to determine if the person's driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card should be reinstated and may reinstate the person's suspended driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card only as provided in subsection (4) of this section.

(4) The granting of an administrative review under this section does not stay the suspension. However, the department shall reinstate the person's driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card if under objective criteria adopted by the department by rule, the department determines the suspension resulted from:

(a) An act described in ORS 809.310 (3)(a) or (b) committed by the person when the person was under 21 years of age; and

(b) The person committed the act solely for the purpose of:

(A) Attempting to purchase, purchasing, consuming or acquiring alcoholic beverages as described in ORS 471.430; or

(B) Unlawfully entering or attempting to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors, as described in ORS 471.430.

(5) The administrative review required under this section shall be conducted in the manner provided in ORS 809.440 (2).

(6) To reinstate driving privileges or the right to apply for driving privileges after the department determines that the person meets the objective criteria under subsection (4) of this section, the person shall pay the fee for reinstatement of driving privileges as described in ORS 807.370 (10).

(7) To reinstate an identification card or the right to apply for an identification card after the department determines that the person meets the objective criteria under subsection (4) of this section, the person shall pay the fee for reinstatement of an identification card as described in ORS 807.410.

(8) The department's authority to reinstate a suspension of a person's driving privileges or right to apply for driving privileges under this section does not impinge on a court's authority to impose a suspension under ORS 165.805 or 471.430. [2012 c.14 §2; 2013 c.237 §46; 2018 c.114 §6; 2019 c.15 §2]

809.320 Cancellation on written request of parent or legal guardian. (1) If an applicant for driving privileges must have a parent or legal guardian sign the application before the person qualifies under ORS 807.060, that parent or legal guardian who has signed the application may thereafter file with the Department of Transportation a written request that the driving privileges of the person so granted be canceled.

(2) The department shall cancel the driving privileges of a person upon written request under this section if the person is under 18 years of age. [1983 c.338 §346; 1985 c.16 §162; 2005 c.143 §2]

809.330 [1983 c.338 §347; 1985 c.669 §11; 1991 c.702 §24; repealed by 1993 c.751 §106]

809.340 [1985 c.396 §3; repealed by 1991 c.702 §20]

809.350 [1985 c.396 §4; 1999 c.849 §§187,188; repealed by 2001 c.294 §12]

809.360 General provisions relating to suspension or revocation of driving privileges. (1) For purposes of determining whether grounds exist for revoking or suspending driving privileges, an unvacated forfeiture of bail in another state equals a conviction.

(2) A suspension or revocation of driving privileges ordered by a court shall run concurrently with any mandatory suspension or revocation ordered by the Department of Transportation and arising out of the same conviction.

(3) Judicial review of orders denying, suspending or revoking a license, except where such suspension or revocation is mandatory, shall be as provided in ORS chapter 183.

(4) Whenever the department or a court has reason under any laws of this state to suspend or revoke the driving privileges of any person who does not hold current driving privileges to operate motor vehicles or whose driving privileges are due to expire

during a suspension period, the department or court shall suspend or revoke the right of such person to apply for driving privileges to operate motor vehicles in this state. A suspension or revocation of a right to apply for driving privileges under this subsection shall be for the period provided by law. [1983 c.338 §348; 1987 c.272 §2; 1989 c.636 §34; 1999 c.1051 §282; 2003 c.14 §487; 2007 c.122 §6; 2013 c.237 §16]

809.370 [1983 c.338 §349; 1985 c.16 §163; 1991 c.317 §1; 2003 c.402 §25; renumbered 809.412 in 2005]

809.380 Period of suspension; effect; reinstatement; fee. All of the following apply to a person whose driving privileges have been suspended:

(1) The period of suspension shall last as long as provided for that particular suspension by law.

(2) During the period of suspension, the person is not entitled to exercise any driving privileges in this state except as provided under this subsection. Unless otherwise specifically provided by law, a person whose driving privileges are suspended may obtain, if the person qualifies, a hardship driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

(3) Upon expiration of the suspension, the Department of Transportation shall reissue, upon request of the person, the suspended driving privileges and any license or driver permit that evidences the driving privileges. The reissuance shall be without requalification by the person except that the department may require the person to furnish evidence satisfactory to the department that the person is qualified to continue to exercise driving privileges in this state before the department reissues the driving privileges.

(4) The department may not issue any driving privileges in contradiction to this section.

(5) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are suspended, the person is subject to the penalties under ORS 809.500.

(6) No reinstatement of suspended driving privileges will be made by the department until the fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee for any of the following reasons:

(a) The suspension occurred under ORS 809.419 for failure to take an examination upon request of the department under ORS 807.340.

(b) The suspension occurred under ORS 809.419 for failure to obtain required medical clearance upon request of the department under ORS 807.070 or 807.090.

(c) The suspension occurred under ORS 809.419 for incompetence to drive a motor vehicle or having a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle.

(d) The suspension occurred under ORS 809.419 upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive.

(e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity.

(f) The department committed an error in issuing the suspension.

(g) The suspension was the result of an error committed by an insurance company in issuing or failing to issue a certification of insurance or in canceling a certification of insurance filed with the department under ORS 806.270.

(h) The department issued the suspension without error because the person failed to respond as required under ORS 806.150 or to furnish proof of exemption under ORS 806.210 from the filing requirement of ORS 806.200, but the department later determines that the person in fact was in compliance with financial responsibility requirements as of the date specified by the department by rule under ORS 806.150 or at the time of an accident described in ORS 806.200.

(i) The department issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date specified by the department by rule under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department later determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150 or at the time of the accident.

(j) The suspension was the result of an error committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150.

(k) The suspension occurred because the person failed to make future responsibility filings but the department later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the

military orders must be prior to the effective date of a suspension issued by the department for failure to make a future responsibility filing.

(L) The department issued the suspension without error because the department received a notice to suspend from a court under ORS 809.210 or 809.220, but the department later determines that the person in fact was in compliance with the requirements of the court prior to the effective date of the suspension. [1983 c.338 §350; 1985 c.16 §164; 1985 c.173 §1; 1985 c.393 §9; 1985 c.669 §17a; 1985 c.714 §8; 1987 c.137 §3; 1987 c.258 §8; 1987 c.272 §3; 1987 c.801 §7; 1989 c.224 §139; 1991 c.474 §1; 2003 c.402 §26; 2005 c.104 §1; 2005 c.140 §3; 2009 c.105 §1; 2017 c.66 §31; 2017 c.701 §25; 2018 c.76 §30; 2019 c.312 §10]

Note: The amendments to 809.380 by section 10, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, including amendments by section 30, chapter 76, Oregon Laws 2018, is set forth for the user's convenience.

809.380. All of the following apply to a person whose driving privileges have been suspended:

(1) The period of suspension shall last as long as provided for that particular suspension by law.

(2) During the period of suspension, the person is not entitled to exercise any driving privileges in this state except as provided under this subsection. Unless otherwise specifically provided by law, a person whose driving privileges are suspended may obtain, if the person qualifies, a hardship driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

(3) Upon expiration of the suspension, the Department of Transportation shall reissue, upon request of the person, the suspended driving privileges and any license or driver permit that evidences the driving privileges. The reissuance shall be without requalification by the person except that the department may require the person to furnish evidence satisfactory to the department that the person is qualified to continue to exercise driving privileges in this state before the department reissues the driving privileges.

(4) The department may not issue any driving privileges in contradiction to this section.

(5) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are suspended, the person is subject to the penalties under ORS 809.500.

(6) No reinstatement of suspended driving privileges will be made by the department until the fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee for any of the following reasons:

(a) The suspension occurred under ORS 809.419 for failure to take an examination upon request of the department under ORS 807.340.

(b) The suspension occurred under ORS 809.419 for failure to obtain required medical clearance upon request of the department under ORS 807.070 or 807.090.

(c) The suspension occurred under ORS 809.419 for incompetence to drive a motor vehicle or having a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle.

(d) The suspension occurred under ORS 809.419 upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive.

(e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity.

(f) The department committed an error in issuing the suspension.

(g) The suspension was the result of an error committed by an insurance company in issuing or failing to issue a certification of insurance or in canceling a certification of insurance filed with the department under ORS 806.270.

(h) The department issued the suspension without error because the person failed to respond as required under ORS 806.160 or to furnish proof of exemption under ORS 806.210 from the filing requirement of ORS 806.200, but the department later determines that the person in fact was in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150 or at the time of an accident described in ORS 806.200.

(i) The department issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department later determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the department's letter of verification or at the time of the accident.

(j) The suspension was the result of an error committed by an insurance company in notifying the department regarding the correctness of a certification under ORS 806.150.

(k) The suspension occurred because the person failed to make future responsibility filings but the department later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the military orders must be prior to the effective date of a suspension issued by the department for failure to make a future responsibility filing.

(L) The department issued the suspension without error because the department received a notice to suspend from a court under ORS 809.210 or 809.220, but the department later determines that the person in fact was in compliance with the requirements of the court prior to the effective date of the suspension.

Note: 806.160 was repealed by section 36, chapter 312, Oregon Laws 2019. The text of 809.380 that is operative until July 1, 2020, was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 809.380 for the repeal of 806.160 has not been made.

809.390 Period of revocation; effect; reinstatement; fee. All of the following apply to a person whose driving privileges have been revoked:

(1) The period of revocation shall last as long as required for the revocation by law.

(2) During the period of revocation, the person is not entitled to exercise any driving privileges in this state or to apply for or receive any driving privileges in this state except when a person who has been determined to be a habitual offender is permitted to obtain driving privileges under ORS 807.240.

(3) Upon expiration of the revocation period, the person must reapply for driving

privileges in the manner established by law and must reestablish the person's eligibility for issuance of driving privileges.

(4) The Department of Transportation may issue new driving privileges to a person before the expiration of the revocation period if the person is otherwise entitled to be issued driving privileges and when, with reference to a conviction upon which the revocation was based, the Governor has pardoned the person of the crime.

(5) The department shall not issue any driving privileges in contradiction to this section.

(6) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are revoked, the person is subject to the penalty under ORS 809.500.

(7) No reinstatement of revoked driving privileges will be made by the department until the fee for reinstatement of revoked driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee if the department committed an error in issuing the revocation. [1983 c.338 §351; 1985 c.16 §165; 1985 c.393 §10; 1985 c.669 §1; 1987 c.801 §8; 2018 c.76 §10]

809.400 Suspension or revocation for out-of-state conviction. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the Department of Transportation may suspend or revoke the driving privileges of any resident of this state upon receiving notice of the conviction of such person in another jurisdiction of an offense therein that, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person. A suspension or revocation under this subsection shall be initiated within 30 days of receipt of notice of the conviction. Violation of a suspension or revocation imposed under this subsection shall have the same legal effects and consequences as it would if the offense committed in the other jurisdiction had been committed in this jurisdiction.

(b) The department may not suspend or revoke driving privileges under this subsection unless notice of conviction is received within 180 days of the date of the conviction.

(2) The department may suspend or revoke the driving privileges of any resident of this state upon receiving notice from another state, territory, federal possession or district or province of Canada that the person's driving privileges in that jurisdiction have been suspended or revoked. Violation of the suspension or revocation shall have the same legal effects and consequences as it would if the suspension or revocation had been imposed initially in this state upon the same grounds. The suspension or revocation under this subsection shall continue until the person suspended or revoked furnishes evidence of any of the following:

(a) Compliance with the law of the other jurisdiction or the restoration of driving privileges in that jurisdiction.

(b) That the revocation or suspension in the other jurisdiction was not under circumstances that would require the department to suspend or revoke the driving privileges of the person under the laws of this state.

(3) A person is entitled to administrative review of a suspension under this section. [1983 c.338 §352; 1987 c.272 §4; 1987 c.730 §16; 1989 c.171 §90; 1989 c.398 §1; 1989 c.636 §35; 1991 c.595 §1; 1991 c.702 §11; 2005 c.649 §24]

809.404 [2005 c.649 §13; 2007 c.122 §13; 2009 c.783 §9; repealed by 2013 c.237 §12]

809.405 [1989 c.715 §4; 1999 c.328 §7; repealed by 2001 c.176 §1]

809.406 Cancellation and disqualification from holding driver license with Class A or Class B farm endorsement. (1) The Department of Transportation shall cancel a driver license with a Class A or Class B farm endorsement or deny a person the right to apply for a Class A or Class B farm endorsement if the person's commercial driving privileges are suspended under ORS 809.520.

(2) If the department cancels a driver license with a Class A or Class B farm endorsement under this section, the person whose license is canceled is entitled to an administrative review under ORS 809.440. [2009 c.395 §2; 2013 c.237 §17]

809.407 [2001 c.492 §2; 2003 c.402 §27; 2011 c.470 §3; renumbered 809.535 in 2013]

809.409 Revocation for conviction of crime. (1)(a) Upon receipt of a record of conviction of an offense described in this section, the Department of Transportation shall revoke the driving privileges of the person convicted.

(b) A person is entitled to administrative review under ORS 809.440 of a revocation under this section.

(c) Except as otherwise provided in subsections (2) and (3) of this section, the revocation shall be for a period of one year from the date of revocation, except that the department may not reinstate driving privileges of any person whose privileges are revoked under this section until the person complies with future responsibility filings.

(2) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked or any degree of mur-

der, manslaughter or criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle, except that the provisions of this subsection do not apply to a person whose driving privileges are ordered revoked under ORS 809.235. A person whose driving privileges are revoked under this subsection may apply for reinstatement of driving privileges:

(a) If the sentence for the crime for which the person's driving privileges were revoked, or any other crimes arising from the same criminal episode, includes incarceration, no sooner than 10 years from the date the person is released from incarceration for all crimes arising out of the same criminal episode; or

(b) If the sentence for the crime for which the person's driving privileges were revoked and any other crimes arising from the same criminal episode does not include incarceration, no sooner than 10 years from the date the department revoked the privileges under this subsection.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, the department shall take action under subsection (1) of this section upon receipt of a record of conviction of failure to perform the duties of a driver to injured persons under ORS 811.705.

(b) The department shall revoke driving privileges under this subsection for a period of three years if the court indicates on the record of conviction that a person sustained serious physical injury, as defined in ORS 161.015, as a result of the accident. The person may apply for reinstatement of privileges three years after the date the person was released from incarceration, if the sentence includes incarceration. If the sentence does not include incarceration, the person may apply for reinstatement three years from the date the revocation was imposed under this subsection.

(c) The department shall revoke driving privileges under this subsection for a period of five years if the court indicates on the record of conviction that a person was killed as a result of the accident. The person may apply for reinstatement of privileges five years after the date the person was released from incarceration, if the sentence includes incarceration. If the sentence does not include incarceration, the person may apply for reinstatement five years from the date the revocation was imposed under this subsection.

(4) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of any felony with a material element involving the operation of a motor vehicle. [2003 c.402 §2; 2007 c.867 §10; 2009 c.320 §2; 2009 c.783 §10; 2011 c.355 §14; 2013 c.124 §1; 2018 c.76 §31]

809.410 [1983 c.338 §353; 1985 c.16 §166; 1985 c.301 §1; 1985 c.393 §10a; 1985 c.396 §6; 1985 c.669 §2a; 1985 c.714 §6; 1987 c.137 §4; 1987 c.258 §9; 1987 c.262 §4; 1989 c.224 §140; 1989 c.636 §31; 1989 c.715 §6; 1991 c.702 §10; 1993 c.393 §7; 1993 c.400 §2; 1993 c.627 §3; 1993 c.761 §4; 1995 c.79 §370; 1995 c.253 §5; 1995 c.656 §6; 1995 c.661 §1; 1997 c.83 §3; 1999 c.789 §6; 1999 c.796 §1; 1999 c.1077 §9; 2001 c.176 §5; 2001 c.294 §5; 2001 c.492 §9; 2003 c.14 §488; 2003 c.115 §1; repealed by 2003 c.402 §§6a,43]

809.411 Suspension for conviction of crime. (1)(a) Upon receipt of a record of conviction for an offense described in this section, the Department of Transportation shall suspend the driving privileges of the person convicted.

(b) A person is entitled to administrative review under ORS 809.440 of a suspension under this section.

(c) Except as otherwise provided in subsections (7), (8) and (9) of this section, the suspension shall be for the period of time described in Schedule I of ORS 809.428. The department may not reinstate driving privileges of any person whose privileges are suspended under subsection (2), (3), (4), (5), (6) or (9) of this section until the person complies with future responsibility filings. There is no requirement of compliance with future responsibility filings if the person was suspended under subsection (7) or (8) of this section.

(2) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of any degree of recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

(3) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of reckless driving under ORS 811.140.

(4) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of failure to perform duties of a driver when property is damaged under ORS 811.700.

(5) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of fleeing or attempting to elude a police officer under ORS 811.540.

(6) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of reckless endangerment of highway workers under ORS 811.231 (1).

(7) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of criminal trespass under ORS 164.245 that involves the operation of a motor vehicle. A suspension under

this subsection shall continue for a period of six months from the date of suspension.

(8) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of an offense described in ORS 809.310. A suspension under this subsection shall continue for a period of one year from the date of the suspension.

(9)(a) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of assault in the second, third or fourth degree resulting from the operation of a motor vehicle.

(b) A person who is convicted of assault in the second degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges eight years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges eight years from the date the department suspended the privileges under this subsection.

(c) A person who is convicted of assault in the third degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges five years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges five years from the date the department suspended the privileges under this subsection.

(d) A person who is convicted of assault in the fourth degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges one year from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges one year from the date the department suspended the privileges under this subsection. [2003 c.402 §3; 2005 c.403 §1; 2011 c.355 §15; 2018 c.76 §32]

809.412 Authority of juvenile court for suspension or revocation. If a juvenile court finds a youth to be within the jurisdiction of the juvenile court under ORS 419C.005 for committing an offense that is a ground for suspension or revocation upon conviction under ORS 809.409, 809.411, 809.510 to 809.545 or 813.400 or any other law requiring suspension or revocation of driving privileges upon conviction of an offense, the juvenile court shall order the suspension or revocation of driving privileges that is required upon conviction of the offense. [Formerly 809.370; 2008 c.49 §3; 2011 c.355 §30; 2013 c.237 §19]

Note: 809.412 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 809 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

809.413 [2003 c.402 §4; 2005 c.649 §20; 2009 c.395 §9; 2009 c.783 §11; 2011 c.470 §4; repealed by 2013 c.237 §12]

809.415 Suspensions for conduct involving judgments, financial responsibility, dishonesty; rules. (1)(a) The Department of Transportation shall suspend the driving privileges of a person who has a judgment of the type described under ORS 806.040 rendered against the person if the person does not settle the judgment in the manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person does one of the following:

(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer that has been found by the department to be obligated to pay the judgment, provided that there has been no final adjudication by a court that the insurer has no such obligation.

(C) Gives evidence to the department that a period of seven years has elapsed since the entry of the judgment.

(D) Receives from the court that rendered the judgment an order permitting the payment of the judgment in installments.

(c) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(2)(a) The department shall suspend the driving privileges of a person who falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or of a person who, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) Notwithstanding paragraph (a) of this subsection, the department may suspend under this subsection only if proof of compliance with financial responsibility requirements as of the date specified by the department by rule under ORS 806.150 is not submitted within the time specified by the department by rule under this section.

(c) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(3)(a) The department shall suspend the driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or fails to provide new proof of compliance for future responsibility filings when requested by the department.

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(c) A person whose initial obligation to make future responsibility filings is not based upon a conviction or other action by a court is entitled to a hearing under ORS 809.440 prior to a suspension under this subsection. A person whose obligation to make future responsibility filings is based upon a conviction or other action by a court is entitled to administrative review under ORS 809.440 of a suspension under this subsection. A person whose suspension under this subsection is based on lapses in filing after the initial filing has been made is entitled to administrative review under ORS 809.440.

(4)(a) The department shall suspend driving privileges when provided under ORS 809.416. The suspension shall continue until the earlier of the following:

(A) The person establishes to the satisfaction of the department that the person has performed all acts necessary under ORS 809.416 to make the person not subject to suspension.

(B) Ten years from the date the traffic offense or violation of ORS 471.430 occurred if the suspension is imposed for a reason described in ORS 809.416 (1) or 20 years from the date the traffic offense occurred if the suspension is imposed for a reason described in ORS 809.416 (2).

(b) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(5) Upon determination by the department that a person has committed an act that constitutes an offense described in ORS 809.310, the department may suspend any driving privileges or any identification card of the person determined to have committed the act. A suspension under this subsection shall continue for a period of one year.

(6) Upon determination by the department that a person has submitted false information to the department for the purpose of establishing or maintaining qualification to operate a commercial motor vehicle or hold commercial driving privileges, the department shall suspend the commercial driving privileges or the person's right to apply for commercial driving privileges for a period of one year. [2003 c.402 §5; 2007 c.127 §1; 2011 c.470 §5; 2013 c.432 §§4,11; 2013 c.237 §20; 2018 c.76 §33; 2019 c.312 §11]

Note: The amendments to 809.415 by section 11, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, including amendments by section 33, chapter 76, Oregon Laws 2018, is set forth for the user's convenience.

809.415. (1)(a) The Department of Transportation shall suspend the driving privileges of a person who has a judgment of the type described under ORS 806.040 rendered against the person if the person does not settle the judgment in the manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person does one of the following:

(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer that has been found by the department to be obligated to pay the judgment, provided that there has been no final adjudication by a court that the insurer has no such obligation.

(C) Gives evidence to the department that a period of seven years has elapsed since the entry of the judgment.

(D) Receives from the court that rendered the judgment an order permitting the payment of the judgment in installments.

(c) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(2)(a) The department shall suspend the driving privileges of a person who falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or of a person who, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) Notwithstanding paragraph (a) of this subsection, the department may suspend under this subsection only if proof of compliance with financial responsibility requirements as of the date of the letter of verification from the department under ORS 806.150 is not submitted within 30 days after the date of the mailing of the department's demand under ORS 806.160.

(c) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(3)(a) The department shall suspend the driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or fails to provide new proof for future responsibility filings when requested by the department.

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(c) A person whose initial obligation to make future responsibility filings is not based upon a conviction or other action by a court is entitled to a hearing under ORS 809.440 prior to a suspension under this subsection. A person whose obligation to make future responsibility filings is based upon a conviction or other action by a court is entitled to administrative review under ORS 809.440 of a suspension under this subsection. A person whose suspension under this subsection is based on lapses in filing after the initial filing has been made is entitled to administrative review under ORS 809.440.

(4)(a) The department shall suspend driving privileges when provided under ORS 809.416. The suspension shall continue until the earlier of the following:

(A) The person establishes to the satisfaction of the department that the person has performed all acts necessary under ORS 809.416 to make the person not subject to suspension.

(B) Ten years from the date the traffic offense or violation of ORS 471.430 occurred if the suspension is imposed for a reason described in ORS 809.416 (1) or 20 years from the date the traffic offense occurred if the suspension is imposed for a reason described in ORS 809.416 (2).

(b) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(5) Upon determination by the department that a person has committed an act that constitutes an offense described in ORS 809.310, the department may suspend any driving privileges or any identification card of the person determined to have committed the act. A suspension under this subsection shall continue for a period of one year.

(6) Upon determination by the department that a person has submitted false information to the department for the purpose of establishing or maintaining qualification to operate a commercial motor vehicle or hold commercial driving privileges, the department shall suspend the commercial driving privileges or the person's right to apply for commercial driving privileges for a period of one year.

Note: 806.160 was repealed by section 36, chapter 312, Oregon Laws 2019. The text of 809.415 that is operative until July 1, 2020, was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 809.415 for the repeal of 806.160 has not been made.

809.416 When person subject to suspension under ORS 809.415; duration. This section establishes circumstances that will make a person subject to suspension under ORS 809.415 (4) and what a person is required to do to make the person no longer subject to suspension. The following apply as described:

(1) A person is subject to suspension under ORS 809.415 (4) if the Department of Transportation receives notice from a court to commence suspension under ORS 809.220. A person who is subject under this subsection remains subject until the person presents the department with notice issued by the court showing that the person is no longer subject to this section or until 10 years have elapsed from the date the traffic offense or violation of ORS 471.430 occurred, whichever is earlier. This subsection does not subject a person to ORS 809.415 (4) for any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court to commence suspension under ORS 809.220, the department shall notify the person, in a manner determined by the department by rule, that the suspension will commence 60 days from the date the department sent the notification unless the person presents the department with notice issued by the court showing that the person is no longer subject to this section.

(2) A person is subject to suspension under ORS 809.415 (4) if the department receives a notice of suspension from a court under ORS 809.210 indicating that the person has failed or refused to pay a fine or obey an order of the court. A person who is subject under this subsection remains subject until the earlier of the following:

(a) The person presents the department with a notice of reinstatement issued by the court showing that the person:

(A) Is making payments, has paid the fine or has obeyed the order of the court; or

(B) Has enrolled in a preapprenticeship program, as defined in ORS 660.010, or is a registered apprentice under ORS 660.020; or

(b) Twenty years have elapsed from the date the traffic offense occurred.

(3) Notwithstanding subsection (2) of this section, a person is not subject to suspension under ORS 809.415 (4) for failure or refusal to pay a fine relating to any pedestrian offense, bicycling offense or parking offense.

(4) Upon receipt of a notice of suspension from a court, the department shall notify the person, in the manner provided by the department by rule, that the suspension will commence 60 days from the date the department sent the notification unless the person presents the department with a notice of reinstatement as described in subsection (2)(a) of this section. [Formerly 809.290; 2007 c.127 §2; 2013 c.432 §§3,9; 2018 c.76 §34; 2019 c.312 §23]

Note: The amendments to 809.416 by section 23, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, including amendments by section 34, chapter 76, Oregon Laws 2018, is set forth for the user's convenience.

809.416. This section establishes circumstances that will make a person subject to suspension under ORS 809.415 (4) and what a person is required to do to make the person no longer subject to suspension. The following apply as described:

(1) A person is subject to suspension under ORS 809.415 (4) if the Department of Transportation receives notice from a court to apply this section under ORS 809.220. A person who is subject under this subsection remains subject until the person presents the department with notice issued by the court showing that the person is no longer subject to this section or until 10 years have elapsed from the date the traffic offense or violation of ORS 471.430 occurred, whichever is earlier. This subsection shall not subject a person to ORS 809.415 (4) for any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice required by this subsection.

(2) A person is subject to suspension under ORS 809.415 (4) if the department receives a notice of suspension from a court under ORS 809.210 indicating that the person has failed or refused to pay a fine or obey an order of the court. A person who is subject under this subsection remains subject until the earlier of the following:

(a) The person presents the department with a notice of reinstatement issued by the court showing that the person:

(A) Is making payments, has paid the fine or has obeyed the order of the court; or

(B) Has enrolled in a preapprenticeship program, as defined in ORS 660.010, or is a registered apprentice under ORS 660.020; or

(b) Twenty years have elapsed from the date the traffic offense occurred.

(3) Subsection (2) of this section does not subject a person to ORS 809.415 (4) for failure or refusal to pay a fine relating to any pedestrian offense, bicycling offense or parking offense. Upon receipt of a notice of suspension from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice of reinstatement required by this subsection.

Note: 809.416 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 809 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

809.417 Suspension for conduct regarding accidents. (1)(a) The Department of Transportation shall suspend the driving privileges of a person who fails to file an accident report required under ORS 811.725 or 811.730.

(b) A suspension under this subsection shall continue until the person files the required report or for five years from the date of suspension, whichever is sooner.

(2) The department shall suspend the driving privileges of any person for a period of time required by this subsection if the person is involved in a motor vehicle accident at any time when the department determines the person has been operating a vehicle in violation of ORS 806.010. A suspension under this subsection shall be for a period of one year except that the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filing requirements.

(3)(a) The department may suspend the driving privileges of a person who, while operating a motor vehicle, causes or contributes to an accident resulting in death to any other person if the department has reason to believe that the person's incompetence, recklessness, criminal negligence or unlawful operation of the vehicle caused or contributed to the accident.

(b) A suspension under this subsection shall continue for a period determined by the department and shall be subject to any conditions the department determines to be necessary.

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440. [2003 c.402 §6; 2003 c.402 §6b]

809.419 Suspensions for physical or mental condition or impairment. (1)(a) The Department of Transportation shall suspend the driving privileges of a person if the department requests the person to submit to examination under ORS 807.340 and the person fails to appear within a reasonable length of time after being notified to do so or fails to satisfactorily complete the required examination. A suspension under this subsection shall continue until the examination required by the department is successfully completed or until the person voluntarily surrenders the person's driving privileges to the department based upon the person's recognition that the person is no longer competent to drive.

(b) Upon suspension under this subsection, the department may issue an identification card to the person for identification purposes as described under ORS 807.400.

(2) The department shall suspend the driving privileges of a person if the department requests the person to obtain medical clearance under ORS 807.070 or 807.090 and the person fails to do so. The suspension under this subsection shall continue until the required medical clearance is received by the department or until the person voluntarily surrenders the person's driving privileges to the department based upon the person's recognition that the person is no longer competent to drive.

(3)(a) The department may suspend the driving privileges of a person who is incompetent to drive a motor vehicle because of a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.

(b) A suspension under this subsection shall be subject to any conditions the department determines to be necessary and shall continue for a period determined by the department or until the person voluntarily surrenders the person's driving privileges to the department based upon the person's recognition that the person is no longer competent to drive.

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger

people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440. A person who is denied eligibility under ORS 807.090 is entitled to a hearing under ORS 809.440.

(4)(a) Whenever the department has reason to believe an individual with a motorcycle endorsement under ORS 807.170 is incompetent to operate a motorcycle, the department may revoke the endorsement.

(b) Upon revocation under this subsection, the endorsed license shall be surrendered to the department.

(c) Upon surrender of the endorsed license, the department may issue a license without endorsement for the unexpired period of the license.

(5) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive, the department shall immediately suspend the driving privileges of the released person. A suspension under this subsection is subject to administrative review under ORS 809.440 and shall continue until such time as the person produces a judicial judgment of competency or a certificate from the superintendent of the hospital that the person is competent, or establishes eligibility under ORS 807.090.

(6) Upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity and committed to the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351, the department shall immediately suspend the driving privileges of the person. A suspension under this subsection is subject to administrative review under ORS 809.440 and shall continue until such time as the person establishes eligibility under ORS 807.090. [2003 c.402 §7; 2003 c.576 §566b; 2005 c.140 §4; 2007 c.195 §3; 2011 c.126 §1; 2011 c.708 §29; 2017 c.442 §28]

809.420 [1983 c.338 §354; 1987 c.547 §1; 1989 c.401 §1; 2001 c.294 §7; 2003 c.402 §28; renumbered 809.428 in 2003]

809.421 Suspensions for miscellaneous driving-related actions. (1)(a) The Department of Transportation may suspend the driving privileges of a person who:

(A) Is habitually incompetent, reckless or criminally negligent in the operation of a motor vehicle; or

(B) Commits a serious violation of the motor vehicle laws of this state.

(b) A suspension under this subsection shall continue for a period determined by the department and shall be subject to any conditions the department determines to be necessary.

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440.

(2) Agreements entered under ORS 802.530 may establish grounds and procedures for the suspension of driving privileges.

(3) The department immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of the person of a crime if the department receives satisfactory evidence that the person has violated restrictions placed on the person's driving privileges under ORS 807.120. A suspension under this subsection shall be subject to a post-imposition hearing under ORS 809.440. A suspension under this subsection shall continue for a period determined by the department, but in no event for longer than one year, and shall be subject to any conditions the department determines to be necessary. [2003 c.402 §8]

809.423 [2003 c.402 §9; 2017 c.701 §26; repealed by 2018 c.76 §17]

809.428 Schedule of suspension or revocation periods for certain offenses. This section establishes schedules of suspension or revocation periods. The schedules are applicable upon conviction for the offense when made applicable under ORS 809.411 and 813.400. The schedules are as follows:

(1) Schedule I. The suspension or revocation periods under Schedule I are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) Ninety days for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) One year for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period. This paragraph applies to any combination of offenses for which the length of suspension is determined under this subsection.

(c) Three years for a third or subsequent offense where the commission of the third or subsequent offense and two or more convictions for separate offenses occur within a five-year period. This paragraph applies to any combination of offenses for which the length of suspension is determined under this subsection.

(2) Schedule II. The suspension or revocation periods under Schedule II are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) One year for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) Three years for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period.

(c) Three years for a third or subsequent offense, where the commission of the third or subsequent offense and a conviction for a separate offense occur within a five-year period. [Formerly 809.420]

809.430 Notice of suspension, cancellation or revocation; contents; service; rules. (1) When the Department of Transportation, as authorized or required, suspends, revokes or cancels driving privileges, commercial driving privileges or the right to apply for driving privileges or commercial driving privileges, the department shall give notice under this section of such action to the person whose driving privileges, commercial driving privileges or right to apply is affected.

(2) Notice under this section shall state the nature and reason for the action and, in the case of a suspension, whether it was ordered by a court.

(3) The department shall serve the notice in a manner determined by the department by rule. [1983 c.338 §355; 1989 c.636 §36; 1989 c.801 §1; 1991 c.695 §1; 1993 c.741 §83; 2013 c.237 §21; 2019 c.312 §24]

809.440 Hearing and administrative review procedures; rules. (1) When other procedures described under this section are not applicable to a suspension or revocation under ORS 809.409 to 809.421, the procedures described in this subsection shall be applicable. All of the following apply to this subsection:

(a) The hearing shall be given before the department imposes the suspension or revocation of driving privileges.

(b) Before the hearing, the department shall notify the person in the manner described in ORS 809.430.

(c) The hearing shall be in the county where the person resides unless the person and the department agree otherwise.

(d) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(2) The following apply when administrative review is provided under any statute or rule of the department:

(a) An administrative review shall consist of an informal administrative process to assure prompt and careful review by the department of the documents upon which an action is based.

(b) It shall be a defense to the department's action if a petitioner can establish that:

(A) A conviction on which the department's action is based was for an offense that did not involve a motor vehicle and the department's action is permitted only if the offense involves a motor vehicle.

(B) An out-of-state conviction on which the department's action is based was for an offense that is not comparable to an offense under Oregon law.

(C) The records relied on by the department identify the wrong person.

(c) A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the action.

(d) Actions subject to administrative review shall be exempt from the provisions of ORS chapter 183 applicable to contested cases, and from the provisions of subsection (4) of this section applicable to post-imposition hearings. A suspension, revocation or cancellation may not be stayed during the administrative review process or by the filing of a petition for judicial review. A court having jurisdiction may order the suspension, revocation or cancellation stayed pending judicial review.

(e) Judicial review of a department order affirming a suspension or revocation after an administrative review shall be available as for review of orders other than contested cases, and the department may not be subject to default for failure to appear in such proceedings. The department shall certify its record to the court within 20 days after service upon the department of the petition for judicial review.

(f) If the suspension or revocation is upheld on review by a court, the suspension or revocation shall be ordered for the length of time appropriate under the appropriate statute except that the time shall be reduced by any time prior to the determination by the court that the suspension or revocation was in effect and was not stayed.

(g) The department shall adopt any rules governing administrative review that are considered necessary or convenient by the department.

(3) When permitted under this section or under any other statute, a hearing may be expedited under procedures adopted by the department by rule. The procedures may include a limited time in which the person may request a hearing, requirements for telephone hearings, expedited procedures for issuing orders and expedited notice procedures.

(4) When permitted under ORS 809.417, 809.419, 809.421 or 809.510 to 809.545, a hearing may be a post-imposition hearing under this subsection. A post-imposition hearing is a hearing that occurs after the department imposes the suspension or revocation of driving privileges. All of the following apply to this subsection:

(a) The department must provide notice in the manner described in ORS 809.430 before the suspension or revocation may take effect.

(b) Except as provided in this subsection, the hearing shall be conducted as a contested case in accordance with ORS chapter 183.

(c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, the hearing shall be held either in the county where the person resides or at any place within 100 miles, as established by the department by rule.

(5) The department has complied with a requirement for a hearing or administrative review if the department has provided an opportunity for hearing or review and the person with the right to the hearing or review has not requested it. Any request for hearing or review must be made in writing.

(6) For any hearing described under this section, and for administrative review described under this section, no further notice need be given by the department if the suspension or revocation is based upon a conviction and the court gives notice, in a form established by the department, of the rights to a hearing or review and of the suspension or revocation. [1985 c.669 §4 (enacted in lieu of 1983 c.338 §§356,357); 1987 c.437 §1; 1989 c.636 §37; 1991 c.702 §3; 1997 c.249 §225; 1999 c.770 §6; 1999 c.849 §§190,191; 2003 c.75 §66; 2003 c.402 §§29,30; 2011 c.355 §16; 2013 c.237 §22]

809.450 Hearing for rescission of suspension for financial and future responsibility violations; grounds. (1) If a person whose driving privileges have been suspended for one of the reasons specified in subsection (2) of this section requests that the suspension be rescinded and specifies the reason for the request, the Department of Transportation may provide a hearing to determine the validity of the suspension. The department may rescind a suspension only as provided in subsection (3) of this section.

(2) This section applies to suspensions under:

(a) ORS 809.415 for failure to make a future responsibility filing;

(b) ORS 809.415 for false certification of financial responsibility requirements; and

(c) ORS 809.417 for involvement in a motor vehicle accident when the department has determined that the person has been operating a vehicle in violation of ORS 806.010.

(3) The granting of a hearing under this section shall not stay the suspension. However, the department shall rescind the suspension if the department determines:

(a) That an error was committed by the department;

(b) That the person in fact was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150;

(c) That an error was committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150;

(d) That the person was not in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150 and the department also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date the department sent the notice of verification and that the person currently is in compliance with financial responsibility requirements; or

(e) That at the time of the accident the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements and the person is currently in compliance with financial responsibility requirements.

(4) The hearing shall be held in the manner provided in ORS 809.440. [1985 c.714 §11; 1987 c.258 §10; 2003 c.402 §31; 2019 c.312 §12]

Note: The amendments to 809.450 by section 12, chapter 312, Oregon Laws 2019, become operative July 1, 2020. See section 37, chapter 312, Oregon Laws 2019. The text that is operative until July 1, 2020, is set forth for the user's convenience.

809.450. (1) If a person whose driving privileges have been suspended for one of the reasons specified in subsection (2) of this section requests that the suspension be rescinded and specifies the reason for the request, the Department of Transportation may provide a hearing to determine the validity of the suspension. The department may rescind a suspension only as provided in subsection (3) of this section.

(2) This section applies to suspensions under:

(a) ORS 809.415 for failure to make a future responsibility filing;

(b) ORS 809.415 for false certification of financial responsibility requirements; and

(c) ORS 809.417 for involvement in a motor vehicle accident when the department has determined that the person has been operating a vehicle in violation of ORS 806.010.

(3) The granting of a hearing under this section shall not stay the suspension. However, the department shall rescind the suspension if the department determines:

(a) That an error was committed by the department;

(b) That the person in fact was in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150;

(c) That an error was committed by an insurance company in notifying the department regarding the correctness of a certification under ORS 806.150;

(d) That the person was not in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150 and the department also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the department's letter of verification and that the person currently is in compliance with financial responsibility requirements; or

(e) That at the time of the accident the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements and the person is currently in compliance with financial responsibility requirements.

(4) The hearing shall be held in the manner provided in ORS 809.440.

809.460 Rescission of suspension or revocation upon appeal of underlying conviction. (1) Except as provided in subsection (4) of this section, if a suspension or revocation of driving privileges is based upon a conviction, the court that entered the judgment of conviction may direct the Department of Transportation to rescind the suspension or revocation if:

(a) The person has appealed the conviction; and

(b) The person requests in writing that the court direct the department to rescind the suspension or revocation pending the outcome of the appeal.

(2) If directed by a court pursuant to subsection (1) of this section to do so, the department shall immediately rescind a suspension or revocation of driving privileges.

(3) The court shall notify the department immediately if the conviction is affirmed on appeal, the appeal is dismissed or the appeal is not perfected within the statutory period. Upon receipt of notice under this subsection, the department shall reimpose any suspension or revocation that has been rescinded under this section.

(4) If a person's commercial driving privileges are suspended under ORS 809.510 to 809.545, the department may not rescind suspension of the person's commercial driving privileges because the person has taken an appeal, unless the conviction is reversed on appeal. [1983 c.338 §359; 1985 c.16 §174; 1989 c.636 §38; 1993 c.751 §61; 1997 c.347 §1; 2003 c.402 §32; 2005 c.649 §17; 2013 c.237 §23]

809.470 When judgment considered settled for purposes of suspension requirements. (1) This section establishes when a judgment described under ORS 806.040 is settled for purposes of ORS 809.130, 809.280 and 809.415. A judgment shall be deemed settled for the purposes described if any of the following occur:

(a) Payments in the amounts established by the payment schedule under ORS 806.070 have been credited upon any judgment or judgments rendered in excess of those amounts.

(b) Judgments rendered for less than the amounts established under ORS 806.070 have been satisfied.

(c) The judgment creditor and the judgment debtor have mutually agreed upon a compromise settlement of the judgment.

(d) The judgment against the judgment debtor has been discharged in bankruptcy.

(2) Payments made in settlement of any claims because of bodily injury, death or property damage arising from the accident shall be credited in reduction of the amounts provided for in subsection (1) of this section. [1983 c.338 §360; 1985 c.16 §175; 2003 c.175 §11; 2003 c.402 §33]

809.480 Driver improvement programs; rules; purpose; suspension; fee. (1) The Department of Transportation may establish, by administrative rule, programs for the improvement of the driving behavior of persons who drive in this state. The programs shall have as their goal the reduction of traffic convictions and especially accidents. The programs may include, but need not be limited to, letters, interviews and classroom instruction.

(2) The department may establish programs for persons who are under 18 years of age that are different from programs for adults. Differences may include, but need not be limited to, differences in criteria for entry into a program and differences in content.

(3) The department, under a program authorized by this section, may suspend driving privileges based on any of the following:

(a) A person's record of convictions or accidents.

(b) A person's failure or refusal to complete or comply with a requirement of a program established by the department under this section.

(4) The department may charge a reasonable fee to participants in a driver improve-

ment program to cover costs of administration.

(5) Any suspension that the department stays under a driver improvement program in this section shall continue for the full term of the suspension if a person fails to complete the program. For purposes of reinstating driving privileges, the stay of a suspension under this section may not be used to determine the length of time a person's driving privileges have been suspended if the person does not successfully complete the program.

(6) A person is entitled to administrative review of a suspension imposed under this section if based on a conviction. [1983 c.338 §368; 1985 c.16 §190; 1991 c.702 §12; 2001 c.176 §2; 2003 c.402 §34]

809.490 Suspension or revocation of driving privileges of nonresident driver; reports to home state. (1) If the defendant named in any certified copy of a judgment reported to the Department of Transportation is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident.

(2) The department, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offenses under the motor vehicle laws of this state, may forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(3) The department may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges to operate a motor vehicle of a resident of this state may be suspended or revoked.

(4) If the driving privileges of a nonresident are revoked or suspended, the department shall transmit a copy of the record of such action to the official in charge of the issuance of licenses in the state, territory, federal possession or district or province of Canada in which the nonresident resides, if the law of the other jurisdiction provides for action in relation thereto similar to that provided under ORS 809.400 for residents of this state whose driving privileges are suspended or revoked in another jurisdiction. [1983 c.338 §361; 1985 c.16 §176; 1985 c.173 §4]

809.500 Failure to return suspended, revoked or canceled license; penalty. (1) A person commits the offense of failure to return a suspended, revoked or canceled license if the person has driving privileges suspended and the person fails to immediately return to the Department of Transportation any license or driver permit issued by the department.

(2) If any person fails to return a license or driver permit on suspension, revocation or cancellation of the person's driving privileges, the department may request any peace officer to secure possession thereof and return it to the department.

(3) The offense described in this section, failure to return a suspended, revoked or canceled license, is a Class C misdemeanor. [1983 c.338 §363; 1985 c.16 §178; 1985 c.393 §11]

(Commercial Driving Privileges)

809.510 Conviction of crime; refusal or failure of blood alcohol test; suspension in another jurisdiction. (1) Except as otherwise provided by ORS 809.510 to 809.545, the Department of Transportation shall suspend the commercial driving privileges of a person for a period of one year when the department receives:

(a) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties of a driver.

(b) A record of conviction of a crime punishable as a felony involving the operation of a motor vehicle.

(c) A record of conviction for driving a commercial motor vehicle while, as a result of prior violations committed while operating a commercial motor vehicle, the commercial driving privileges of the driver were suspended.

(d) A record of conviction of assault in the first degree, or any degree of criminally negligent homicide, manslaughter or murder, if the conviction results from the operation of a commercial motor vehicle.

(e) A record of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked.

(f) A record of conviction for driving while under the influence of intoxicants under ORS 813.010.

(2) The department shall suspend the commercial driving privileges of a person for a period of three years if the department receives a record of a conviction under subsection (1) of this section and the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.

(3) The department shall suspend the commercial driving privileges of a person for a period of one year if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a commercial motor vehicle and submitted to a breath or blood test and the person's blood, as shown by the test, had 0.04 percent or

more by weight of alcohol. The department shall suspend the commercial driving privileges of the person for a period of three years if the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.

(4) The department shall suspend the commercial driving privileges of a person for a period of three years if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a motor vehicle and refused to submit to a test under ORS 813.100. The department shall suspend the commercial driving privileges of the person for a period of five years if the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.

(5) The department shall suspend the commercial driving privileges of a person if the department receives a notice of a conviction in another jurisdiction of an offense that, if committed in this state, would be grounds for the suspension of the person's commercial driving privileges. The period of suspension under this subsection shall be the same as would be imposed on the person if the conviction were for an offense committed in this state. For the purposes of this subsection, "conviction" means an unvacated adjudication of guilt, a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or in an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost or the violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

(6) The department shall suspend the commercial driving privileges of a person in this state if the department receives a notice from another jurisdiction that the person has had commercial driving privileges suspended or revoked in another jurisdiction for reasons that would be grounds for suspension of the person's commercial driving privileges in this state. The period of suspension under this subsection is the same as would be imposed on the person if the violation were committed in this state.

(7) If the department receives a record, report or notice under this section for a person who does not hold commercial driving privileges in this state, the department shall suspend the person's right to apply for commercial driving privileges as provided in ORS 809.540 (1).

(8) A suspension imposed under this section is consecutive to any other suspension imposed under ORS 809.525, 809.530 or 809.535 if the suspensions do not arise out of the same incident. [2013 c.237 §4]

809.515 Failure to appear, pay fine or obey court order in another jurisdiction; disqualification by Federal Motor Carrier Safety Administration. (1)(a) The Department of Transportation shall suspend the commercial driving privileges of a person if the department receives a notice from another jurisdiction that the person failed to appear, pay a fine or comply with an order of the court in a prosecution on a citation for a traffic offense or for a violation in the other jurisdiction that, if committed in this state, would be grounds for suspension under ORS 809.210 or 809.220, and the person held commercial driving privileges or was operating a commercial motor vehicle at the time of the offense. The period of a suspension under this subsection is the shorter of:

(A) Ten years; or

(B) Until the department receives notice from the other jurisdiction that the person appeared, paid the fine or complied with the court's order.

(b) The department shall suspend a person's commercial driving privileges under this subsection without regard to whether the other jurisdiction suspends any driving privileges of the person by reason of the person's failure to appear, pay a fine or comply with an order of the court.

(c) This subsection does not apply to failure to appear, pay a fine or comply with an order of the court in a proceeding relating to a parking, pedestrian, vehicle defect or bicycling offense.

(2) The department shall suspend the commercial driving privileges of a person if the department receives a notice from the Federal Motor Carrier Safety Administration that the person has been disqualified from operating a commercial motor vehicle and that the disqualification is due to a determination that the driving of that person constitutes an imminent hazard. The department shall immediately suspend commercial driving privileges under this subsection without hearing, but the person may request a post-imposition hearing under ORS 809.440 (4), without regard to any hearings conducted by the Federal Motor Carrier Safety Administration. The period of a suspension under this section is the period of suspension prescribed by the Federal Motor Carrier Safety Administration, or one year, whichever is shorter. [2013 c.237 §5]

809.520 Lifetime suspension of commercial driving privileges. (1) Notwithstanding ORS 809.510, the Department of Transportation shall permanently suspend a

person's commercial driving privileges for the lifetime of the person if the department receives a record of conviction for a crime punishable as a felony in which a motor vehicle was used and that involved the manufacturing, distributing or dispensing of a controlled substance, as defined in ORS 475.005. The department may not reinstate commercial driving privileges of a person whose commercial driving privileges are suspended under this subsection.

(2) Notwithstanding ORS 809.510, the department shall suspend a person's commercial driving privileges for the lifetime of the person if the department receives a second or subsequent record, report or notice described in ORS 809.510 that does not arise out of the same incident and that would be grounds for suspension of the person's commercial driving privileges under ORS 809.510.

(3) Except as provided in subsections (1) and (4) of this section, a person whose commercial driving privileges were suspended under subsection (2) of this section may apply to the department for reinstatement of the person's commercial driving privileges. An application for reinstatement may not be made under this subsection earlier than 10 years after the date that the person's commercial driving privileges were suspended under subsection (2) of this section. The department may reinstate the person's commercial driving privileges if:

(a) The person meets all other requirements for the granting of commercial driving privileges;

(b) The department, in its sole discretion, finds good cause exists for reinstatement; and

(c) The department finds that the person has successfully completed rehabilitation as approved by the department.

(4) The department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record, report or notice described in subsection (2) of this section that relates to conduct that occurred after the person's commercial driving privileges were reinstated under subsection (3) of this section. The department may not reinstate the commercial driving privileges for the lifetime of a person whose commercial driving privileges are suspended under this subsection. [2013 c.237 §6]

809.525 Serious traffic offenses; rules. (1) Except as provided in this section, the Department of Transportation shall suspend the commercial driving privileges of a person for a period of 60 days if:

(a) The department receives a record of a conviction of a serious traffic offense;

(b) The offense was committed within three years of the commission of another serious traffic offense for which the department received a record of a conviction; and

(c) The offenses did not arise out of the same incident.

(2) The department shall suspend the commercial driving privileges of a person for a period of 120 days if:

(a) The department receives a record of a conviction of a serious traffic offense;

(b) The offense was committed within three years of the commission of two or more other serious traffic offenses for which the department received records of conviction; and

(c) The offenses did not arise out of the same incident.

(3) The department by rule shall designate traffic offenses that constitute serious traffic offenses for the purposes of this section. To the extent practicable, rules adopted by the department under this section shall be uniform with any applicable federal regulations related to offenses that constitute serious traffic offenses.

(4) A report of a conviction in another jurisdiction has the same effect as if the serious traffic offense conviction had occurred in this state.

(5) A suspension imposed under this section is consecutive to any other suspension imposed under this section or ORS 809.510, 809.530 or 809.535 if the suspensions do not arise out of the same incident. [2013 c.237 §7; 2017 c.190 §2]

809.530 Violation of out-of-service order. (1) Except as provided in this section, the Department of Transportation shall suspend the commercial driving privileges of a person for a period of 180 days if the department receives a report that the person violated an out-of-service order issued under ORS 813.050 or has violated any other out-of-service order or notice. A report under this section may include, but need not be limited to, a record of conviction or a record of a determination by a state or federal agency with jurisdiction to make a determination that the person has violated an out-of-service order or notice.

(2) The department shall suspend the commercial driving privileges of a person for a period of one year if the department receives a report as described in subsection (1) of this section and:

(a) The person committed the violation while transporting hazardous materials; or

(b) The person committed the violation while operating a motor vehicle designed to

transport 16 or more persons, including the driver.

(3) The department shall suspend the commercial driving privileges of a person for a period of three years if:

(a) The department receives a report as described in subsection (1) of this section; and

(b) The violation was committed within 10 years of the commission of one or more other violations of out-of-service orders for which the department received reports as described in subsection (1) of this section.

(4) The department shall suspend the commercial driving privileges of a person for a period of five years if the department receives a report that meets the requirements of subsection (3) of this section and:

(a) The violation that is the subject of the report occurred while the person was transporting hazardous materials; or

(b) The person committed the violation while operating a motor vehicle designed to transport 16 or more persons, including the driver.

(5) A suspension imposed under this section is consecutive to any other suspension imposed under this section or ORS 809.510, 809.525 or 809.535 if the suspensions do not arise out of the same incident. [2013 c.237 §8]

809.535 Suspension of commercial driver license for specified rail crossing violations. (1) The driver of a commercial motor vehicle is subject to suspension of the driver's commercial driving privileges upon conviction of any of the following offenses:

(a) Failure to stop for a railroad signal in violation of ORS 811.455.

(b) Failure to follow rail crossing procedures for high-risk vehicles in violation of ORS 811.460.

(c) Obstructing a rail crossing in violation of ORS 811.475.

(d) Failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train or other on-track equipment in violation of ORS 811.462.

(2) Upon receipt of a record of conviction for an offense described in subsection (1) of this section, the Department of Transportation shall suspend the convicted person's commercial driving privileges for the following periods of time:

(a) Sixty days if:

(A) The conviction is the person's first conviction of an offense described in subsection (1) of this section; or

(B) The date the person committed an offense described in subsection (1) of this section is not within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction.

(b) One hundred and twenty days if:

(A) The conviction is the person's second conviction of an offense described in subsection (1) of this section;

(B) The date the person committed the second offense is within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction; and

(C) The convictions arose out of separate incidents.

(c) One year if:

(A) The conviction is the person's third or subsequent conviction for an offense described in subsection (1) of this section;

(B) The date the person committed the latest offense is within three years of the dates the person committed two or more other offenses, as described in subsection (1) of this section and for which there were convictions; and

(C) The convictions arose out of separate incidents.

(3) A person is entitled to administrative review under ORS 809.440 of a suspension under this section.

(4) A report of a conviction in another jurisdiction of an offense described in subsection (1) of this section has the same effect as if the conviction had occurred in this state.

(5) A suspension imposed under this section is consecutive to any other suspension imposed under this section or ORS 809.510, 809.525 or 809.530 if the suspensions do not arise out of the same incident. [Formerly 809.407; 2013 c.237 §18; 2017 c.176 §6]

809.540 Right to apply. (1) If the Department of Transportation receives a record, report or notice described in ORS 809.510 to 809.545, and the person who is the subject of the record, report or notice was driving a commercial motor vehicle at the time of the incident giving rise to the record, report or notice but did not hold commercial driving privileges at the time of the incident, the department shall suspend the person's right to apply for commercial driving privileges for the period specified in ORS 809.510 to 809.545.

(2) If the department receives a record, report or notice described in ORS 809.510 to 809.545, and the commercial driving privileges of the person who is the subject of the

record, report or notice are due to expire during the suspension period, the department shall suspend the person's right to apply for commercial driving privileges for the suspension period specified in ORS 809.510 to 809.545. [2013 c.237 §10]

809.545 Administrative review. (1) Except as provided in subsections (2) and (3) of this section, a person is entitled to administrative review under ORS 809.440 for a suspension of commercial driving privileges under ORS 809.510 to 809.545, or a suspension of the right to apply for commercial driving privileges under ORS 809.540.

(2) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.510 (3) or (4), or a suspension of the right to apply for commercial driving privileges under ORS 809.540 based on ORS 809.510 (3) or (4).

(3) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.520 (2) or (4) when the suspension is based on conduct described in ORS 809.510 (3) or (4), or a suspension of the right to apply for commercial driving privileges under ORS 809.540 when the suspension is based on conduct described in ORS 809.510 (3) or (4). [2013 c.237 §11]

(Habitual Offenders)

809.600 Kinds of offenses and number of convictions. This section establishes the kinds of offenses and the number of convictions necessary to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The kinds of offenses and the number of convictions necessary to revoke driving privileges as a habitual offender are as follows:

(1) A person's driving privileges shall be revoked as a habitual offender if the person, within a five-year period, has been convicted of three or more of any one or more of the following offenses as evidenced by the records maintained by the Department of Transportation or by the records of a similar agency of another state:

(a) Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

(b) Driving while under the influence of intoxicants under ORS 813.010.

(c) Criminally driving a motor vehicle while suspended or revoked, under ORS 811.182.

(d) Reckless driving under ORS 811.140.

(e) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

(f) Fleeing or attempting to elude a police officer under ORS 811.540.

(g) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended or revoked under ORS 163.196.

(2) A person's driving privileges shall be revoked as a habitual offender if the person, within a five-year period, has been convicted of 20 or more of any one or more of the following offenses as evidenced by the records maintained by the department or by a similar agency of another state:

(a) Any offenses enumerated in subsection (1) of this section.

(b) Any offense specified in the rules of the department adopted under ORS 809.605.

(3) A person's driving privileges shall not be revoked under subsection (2) of this section until the person's 21st conviction within a five-year period when the 20th conviction occurs after a lapse of two years or more from the last preceding conviction.

(4) The offenses described under this section include any of the following:

(a) Any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation that substantially conforms to offenses described under this section.

(b) Any violation of offenses under any federal law or any law of another state, including subdivisions thereof, that substantially conform to offenses described in this section.

(5) A revocation under this section shall continue for a period of five years from the date of revocation. [1983 c.338 §365; 1985 c.16 §179; 1987 c.730 §17; 1987 c.887 §7; 1989 c.592 §6; 1991 c.601 §5; 1991 c.728 §4; 1995 c.209 §3; 1999 c.1051 §283; 2001 c.494 §1; 2007 c.867 §11; 2009 c.783 §12; 2018 c.76 §11]

809.605 Determination of which offenses count; rules. The Department of Transportation shall adopt rules specifying which traffic offenses count for the purpose of determining that a person is a habitual offender under ORS 809.600 (2) because the person has been convicted of 20 or more traffic offenses. [2001 c.494 §3]

809.610 Restriction of driving privileges; notice; meeting. (1) When the Department of Transportation receives an abstract of the conviction under ORS 810.375, and the conviction is the second one of those described by ORS 809.600 (1) for the person or the 19th of those described by ORS 809.600 (2) for the person, the department may restrict the person's driving privileges and shall send the person notice of the restrictions by first class mail.

(2) A person notified under subsection (1) of this section of restrictions placed on the person's driving privileges may request a meeting with a representative of the department to determine whether the restrictions may be lifted. [1985 c.16 §181; 1989 c.15 §1; 1999 c.1051 §284; 2001 c.104 §303; 2001 c.494 §6]

809.620 [1985 c.16 §183; 1989 c.15 §2; repealed by 1991 c.702 §20]

809.630 [1985 c.16 §185; repealed by 1991 c.702 §20]

809.640 Procedures on habitual offender determination. When the Department of Transportation determines from the driving record of a person as maintained by the department that a person's driving privileges are required to be revoked as a habitual offender under ORS 809.600, the department shall revoke the driving privileges of the person. A person is entitled to administrative review of a revocation under this section. [1983 c.338 §367; 1985 c.16 §187; 1991 c.702 §12a]

809.650 [1983 c.338 §366; 1985 c.16 §186; repealed by 2018 c.76 §1]

809.660 [1985 c.16 §189; repealed by 2018 c.76 §1]

VEHICLE IMPOUNDMENT AND IMMOBILIZATION; SEIZURE AND FORFEITURE

809.698 Definition of "vehicle immobilization device." As used in ORS 809.700 and 809.702, a "vehicle immobilization device" means a device that may be clamped and locked onto a part of a motor vehicle for the purpose of immobilizing the vehicle. [1997 c.540 §2; 1999 c.467 §1]

809.700 Court-ordered impoundment or immobilization upon conviction; grounds; duration; vehicles subject; return; security interest holder rights. A court may order a motor vehicle impounded or immobilized upon conviction for the traffic offenses described in this section. The authority to impound or immobilize a vehicle under this section is subject to all of the following:

(1) The court may order a vehicle impounded or immobilized under this section when a person is convicted:

(a) For driving a motor vehicle while the person's license is suspended or revoked in violation of ORS 811.175 or 811.182; or

(b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.

(2) A vehicle may be impounded or immobilized under this section for not more than one year from judgment.

(3) The following vehicles may be impounded under this section:

(a) Any motor vehicle of which the convicted person is the owner.

(b) Any motor vehicle which the convicted person is operating at the time of arrest.

(4) A vehicle may be immobilized under this section if the vehicle is registered in this state and is a vehicle that may be impounded under subsection (3) of this section.

(5)(a) If a vehicle is ordered to be immobilized under this section and if the convicted person resides in the jurisdiction of the law enforcement agency that arrested the person for the offense described in subsection (1) of this section, the arresting law enforcement agency shall install a vehicle immobilization device on the vehicle. If the convicted person does not reside in the jurisdiction of the law enforcement agency that arrested the person, the sheriff of the county in which the person resides shall install the device.

(b) A vehicle ordered immobilized under this section shall be immobilized at the residence of the owner of the vehicle or at the location where the owner regularly parks the vehicle.

(c) A vehicle ordered immobilized under this section may be immobilized only in a location at which the vehicle may be legally stored for the period of the immobilization order. If no location is available at which the vehicle may be legally stored, the vehicle may be impounded for the period of the immobilization order.

(d) A vehicle owner who fails to allow installation of a vehicle immobilization device ordered under this section shall be subject to contempt of court proceedings under ORS 33.015 to 33.155.

(6)(a) If a vehicle is impounded under this section, the person convicted shall be liable for the expenses incurred in the towing and storage of the vehicle under this section, whether or not the vehicle is returned to the person convicted.

(b) If a vehicle is immobilized under this section, the person convicted shall be liable for the expenses incurred in installation and removal of the vehicle immobilization device and for rental of the device during the period the device is installed on the vehicle, whether or not the vehicle is released to the person convicted.

(7) A vehicle shall be released or returned to the person convicted or the owner only upon payment of the expenses incurred in the immobilization or towing and storage of the vehicle under this section.

(8) If a vehicle is not reclaimed within 30 days after the time set for the return of the vehicle in an impounding order or release of the vehicle in an immobilization order, the vehicle may be disposed of in accordance

with procedures under ORS 819.110 to 819.215.

(9) The court may order that a motor vehicle of which the convicted person is not the owner be impounded or immobilized under this section only if the court is satisfied by a preponderance of the evidence that the owner knew or had good reason to know that the convicted person:

(a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or

(b) Was operating the vehicle while under the influence of intoxicants.

(10) The authority to impound or immobilize a vehicle under this section is subject to the rights of a security interest holder under a security agreement executed before an arrest for violation of an offense for which the vehicle may be impounded or immobilized under this section. A vehicle shall be released for the purpose of satisfying a security interest if:

(a) Request in writing is made to the court;

(b) If the vehicle has been impounded or immobilized, the security interest holder pays the expenses in towing and storage or in immobilization of the vehicle; and

(c) If the registration of the vehicle has been suspended under ORS 809.010, the security interest holder takes possession of the vehicle subject to the suspension of the registration remaining in effect against the registered owner.

(11) A security interest holder's obligation to pay and right to recover towing and storage or immobilization expenses under subsection (10) of this section are limited to the recovery of those towing and storage or immobilization expenses incurred during the initial 20-day period when the vehicle was in public storage or immobilized, unless the authority taking the vehicle into custody or immobilizing the vehicle under this section has transmitted by certified mail a written notice to the holder concerning the accrual of storage or immobilization expenses. If the vehicle is in private storage, the lien claimant shall transmit the written notice. [1983 c.338 §385; 1985 c.16 §200; 1987 c.730 §18; 1993 c.385 §3; 1997 c.540 §3; 1999 c.467 §2; 2009 c.371 §2]

809.702 Tampering with vehicle immobilization device; penalty. (1) A person commits the offense of tampering with a vehicle immobilization device if the person does anything to a vehicle immobilization device that was ordered installed under ORS 809.700 that circumvents the operation of the device.

(2) The offense described in this section, tampering with a vehicle immobilization device, is a Class A traffic violation. [1997 c.540 §5; 1999 c.467 §3]

809.710 Authority to refuse to release vehicle to intoxicated person. Notwithstanding any other provision of law, a police officer, a police agency or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants. [Formerly 484.225]

809.715 [Formerly 806.014; 1997 c.514 §5; repealed by 2001 c.748 §2]

809.716 Hearing on impoundment. (1) A person entitled to lawful possession of a vehicle impounded under ORS 809.720 may request a hearing to contest the validity of the impoundment. A request must be made within five calendar days after the date that notice of the impoundment is mailed, as evidenced by the postmark, not including Saturdays, Sundays or holidays. The request shall be made to a person designated by the impounding police agency to receive such requests.

(2) When a timely request for a hearing is made, a hearing shall be held before a hearings officer designated by the impounding police agency. The hearing shall be set for four calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing.

(3) The impounding police agency shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, 807.010, 811.175, 811.182 or 813.010. The police officer who ordered the vehicle impounded may submit an affidavit to the hearings officer in lieu of making a personal appearance at the hearing.

(4) If the hearings officer finds that the impoundment of the vehicle was proper, the hearings officer shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The hearings officer may also find the owner or person entitled to possession of the vehicle liable for costs of the hearing.

(5) If the hearings officer finds that impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the vehicle is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the vehicle for towing and storage

charges, the hearings officer shall order it paid by the impounding police agency.

(6) A police agency may contract with another agency or entity to conduct hearings under this section. [Formerly 806.016; 1997 c.514 §4; 1999 c.1051 §284a; 2001 c.748 §3]

809.720 Impoundment for specified offenses; grounds; notice; release. (1) A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer. This subsection applies to the following offenses:

(a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.

(b) Driving while under the influence of intoxicants in violation of ORS 813.010.

(c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.

(d) Driving uninsured in violation of ORS 806.010.

(2) Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.

(3) A vehicle impounded under subsection (1) of this section shall be released to a person entitled to lawful possession upon compliance with the following:

(a) Submission of proof that a person with valid driving privileges will be operating the vehicle;

(b) Submission of proof of compliance with financial responsibility requirements for the vehicle; and

(c) Payment to the police agency of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment.

(4) Notwithstanding subsection (3) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

(5) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (3) or (4) of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.

(6) Notwithstanding subsection (3) of this section, the holder of a towing business certificate issued under ORS 822.205 may foreclose a lien created by ORS 87.152 for the towing and storage charges incurred in the impoundment of the vehicle, without payment of the administrative fee under subsection (3)(c) of this section.

(7) Nothing in this section or ORS 809.716 limits either the authority of a city or county to adopt ordinances dealing with impounding of uninsured vehicles or the contents of such ordinances except that cities and counties shall comply with the notice requirements of subsection (2) of this section and ORS 809.725.

(8) A police agency may not collect its fee under subsection (3)(c) of this section from a holder of a towing business certificate issued under ORS 822.205 unless the holder has first collected payment of any towing and storage charges associated with the impoundment. [1997 c.514 §2; 2001 c.748 §1]

809.725 Notice following impoundment under city or county ordinance. (1) When a motor vehicle is impounded under authority of a city or county ordinance, the city or county shall give notice of the impoundment to the owners of the motor vehicle and to any lessors or security interest holders as shown on the records of the Department of Transportation. The notice shall be given within 48 hours of impoundment.

(2) The notice required by subsection (1) of this section shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle. [1997 c.514 §3]

809.730 Seizure of motor vehicle for civil forfeiture; driving while under the influence of intoxicants. (1) A motor vehicle may be seized and forfeited if the person operating the vehicle is arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

(a) Driving while under the influence of intoxicants in violation of:

(A) ORS 813.010; or

(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

(b) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of intoxicating liquor, cannabis, a controlled substance, an inhalant or any combination thereof;

(c) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that

jurisdiction's permissible blood alcohol content;

(d) Murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction; or

(e) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended or revoked under ORS 163.196.

(2) For the purposes of subsection (1) of this section, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.

(3) All seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 131A. [1999 c.1100 §2; 2001 c.104 §304; 2001 c.780 §§18,18a; 2007 c.867 §12; 2007 c.879 §5; 2009 c.78 §61; 2009 c.783 §13; 2017 c.21 §79]

809.735 Preemption of local forfeiture ordinances. (1) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city or county ordinance enacted and in effect on June 22, 1999, relating to forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(2) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city with a population exceeding 400,000 or a county with a population exceeding 500,000 from enacting, on or before January 1, 2000, an ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(3) Notwithstanding subsections (1) and (2) of this section, seizure and forfeiture procedures in a city or county ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730 shall be in accordance with ORS chapter 131A. [1999 c.1100 §3; 2009 c.78 §62]

Note: 809.735 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

809.740 Seizure of motor vehicle for forfeiture; driving while suspended or revoked. (1) A motor vehicle may be seized for forfeiture if the person operating the motor vehicle is arrested or issued a citation for criminal driving while suspended or revoked under ORS 811.182 or aggravated driving while suspended or revoked under ORS 163.196, and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

(a) Criminal driving while suspended or revoked under ORS 811.182; or

(b) Aggravated driving while suspended or revoked under ORS 163.196.

(2) All seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 131A. [2013 c.374 §2]

809.745 Adoption of policies and procedures prior to forfeiture. A law enforcement agency, as defined in ORS 136.595, may not seize a vehicle for forfeiture under ORS 131.602 (137) or (138) or 809.740, unless the agency has adopted policies and procedures for seizure, including policies relating to when a police officer may seize a motor vehicle for forfeiture under ORS 131.602 (137) or (138) or 809.740. [2013 c.374 §3; 2017 c.21 §125]

Chapter 810

2019 EDITION

Road Authorities; Courts; Police; Other Enforcement Officials

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(Photo Radar)

810.438 Photo radar; authorized jurisdictions

810.439 Citations based on photo radar; response to citation

810.441 Photo radar; highway work zones

810.442 **Citations based on photo radar in highway work zones; response to citation**

(Temporary provisions relating to the use of photo radar in the City of Fairview are compiled as notes following ORS 810.442)

(Temporary provisions relating to the use of photo radar in the City of Portland are compiled as notes following ORS 810.442)

(Security for Appearance)

810.448 **Security for appearance of person arrested for traffic crime**

810.450 **Security for appearance of person issued citation**

(Accident Reports)

810.460 **Officer's accident report; use**

(Stops and Inspections)

810.480 **Inspections involving vehicle dealers and dismantlers**

810.490 **Weighing and measuring vehicles; citation; reduction of load**

810.500 **Stopping and testing vehicles for equipment violations**

810.510 **State police inspection for mechanical condition and equipment**

810.520 **Vehicle repair warning**

OTHER ENFORCEMENT OFFICIALS

810.530 **Authority of weighmasters and motor carrier enforcement officers**

810.540 **Enforcement of snowmobile and all-terrain vehicles violations by persons other than police officers**

810.550 **Authority of railroad officers to move illegally parked vehicles**

810.560 **Certification and training of commercial vehicle inspectors**

ROAD AUTHORITIES

(Jurisdiction)

810.010 Jurisdiction over highways; exception. This section designates the bodies responsible for exercising jurisdiction over certain highways when the vehicle code requires the exercise of jurisdiction by the road authority. This section does not control where a specific section of the vehicle code specifically provides for exercising jurisdiction in a manner different than provided by this section. Except as otherwise specifically provided under the code, the responsibilities designated under this section do not include responsibility for maintenance. Responsibility for maintenance is as otherwise provided by law. The following are the road authorities for the described roads:

(1) The Department of Transportation is the road authority for all state highways in this state including interstate highways.

(2) The county governing body is the road authority for all county roads outside the boundaries of an incorporated city.

(3) The governing body of an incorporated city is the road authority for all highways, roads, streets and alleys, other than state highways, within the boundaries of the incorporated city.

(4) Any other municipal body, local board or local body is the road authority for highways, other than state highways, within its boundaries if the body or board has authority to adopt and administer local police regulations over the highway under the Constitution and laws of this state.

(5) Any federal authority granted jurisdiction over federal lands within this state under federal law or rule is the road authority for highways on those lands as provided by the federal law or rule. [1983 c.338 §145; 1985 c.16 §45]

810.012 Jurisdiction over access to facilities and services from certain roads; rules. Notwithstanding any other provision of the Oregon Vehicle Code, the Oregon Transportation Commission, by rule, may establish procedures for, and certify to the Federal Highway Administration compliance with, 23 C.F.R. part 658 for roads under the authority of cities and counties. [1991 c.283 §2]

(Roads)

810.020 Regulating use of throughway. (1) Each road authority may prohibit or restrict the use of a throughway in its jurisdiction by any of the following:

(a) Parades.

(b) Bicycles or other nonmotorized traffic.

(c) Motorcycles or mopeds.

(2) Regulation under this section becomes effective when appropriate signs giving notice of the regulation are erected upon a throughway and the approaches to the throughway.

(3) Penalties for violation of restrictions or prohibitions imposed under this section are provided under ORS 811.445.

(4) The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. [1983 c.338 §146]

810.030 Imposition of restrictions on highway use; grounds; procedure; penalties. (1) A road authority may impose restrictions described under this section on its own highways as the road authority determines necessary to do any of the following:

(a) Protect any highway or section of highway from being unduly damaged.

(b) Protect the interest and safety of the general public.

(2) Restrictions that may be imposed under this section include any of the following:

(a) Prohibition of the operation of any or all vehicles or any class or kind of vehicle.

(b) Imposing limits on any weight or dimension of any vehicle or combination of vehicles.

(c) Imposing any other restrictions that the road authority determines necessary to achieve the purposes of this section. This paragraph does not grant authority to impose speed restrictions.

(3) Any restrictions or limitations imposed under this section must be imposed by proper order. The restrictions or limitations are effective when appropriate signs giving notice of the restrictions or limitations are erected. A sign giving notice of a restriction or limitation in an order shall be maintained in a conspicuous manner and shall be placed at each end of the highway or section of highway affected by the order and at such other places as is necessary to inform the public.

(4) Penalties are provided under ORS 818.130 for violation of restrictions imposed under this section. [1983 c.338 §147; 1985 c.16 §46]

810.040 Designation of truck routes; limitations; penalties. Each road authority may designate any of its highways or any section of any of its highways as a truck route and may prohibit the operation of trucks, machinery or any other large or heavy vehicles upon any other of its highways that serves the same route or area served by the truck route designated. The

authority granted under this section is subject to all of the following:

(1) The governing body of an incorporated city shall not designate a truck route or prohibit the operation of any vehicle on a:

(a) State highway that is within the boundaries of the city without the written consent of the Department of Transportation.

(b) County road that is within the boundaries of the city without the written consent of the governing body of the county.

(2) Any designation or prohibition made under authority of this section must be imposed by appropriate order, resolution or ordinance.

(3) A road authority exercising authority under this section shall erect and maintain signs in a conspicuous manner and place at each end of the highway or section of highway where a designation or prohibition is imposed to give notice of the prohibitions or designations imposed. The road authority shall erect and maintain signs giving notice of any prohibitions or designations imposed under this section at such other places as may be necessary to inform the public.

(4) A prohibition or designation imposed under this section is effective when signs giving notice thereof are posted as required by this section.

(5) Penalties are provided under ORS 811.450 for violation of requirements imposed under this section. [1983 c.338 §148]

810.050 Increase or decrease in size or weight limits on highways if federal mandate allows or requires; rules. (1) The Department of Transportation may authorize the movement on highways under its jurisdiction of vehicles or combinations of vehicles of a size or weight in excess of the limits under ORS 818.020, 818.090 or 818.110 if federal law permits various states to establish size and weight limits in excess of those under ORS 818.020, 818.090 or 818.110. The department shall exercise the authority granted under this subsection subject to all of the following:

(a) The department shall only establish weight and size limits under this subsection within the limits necessary to qualify for federal aid highway funds.

(b) The department shall exercise the authority either by adoption of a rule or resolution under ORS 810.060 or by issuance of variance permits under ORS 818.200. When the department exercises the authority under this paragraph, the weight limits or size limits established under this subsection shall apply.

(2) The department may by rule prohibit the movement on highways under its jurisdiction of vehicles or combinations of vehicles of a size or weight otherwise authorized by statute if the prohibition is necessary in order to qualify for federal aid highway funds.

(3) Road authorities other than the department may increase or decrease size and weight limits on their own highways if the department exercises the authority granted under this section. The exercise of authority under this subsection is subject to all of the following:

(a) A road authority may not exercise the authority to establish a size or weight limit that exceeds the maximum authorized by the department or to prohibit vehicles or combinations of vehicles that are not prohibited by the department under subsection (2) of this section.

(b) The road authority shall exercise the authority either by adoption of a rule, resolution or ordinance under ORS 810.060 or by issuance of variance permits under ORS 818.200.

(4) Penalties are provided under ORS 818.060 and 818.340 for violation of limits established under this section. [1983 c.338 §149; 1985 c.16 §47; 1993 c.510 §3]

810.060 Increase in weight or size if highway found capable of supporting increase; rules. A road authority shall adopt a rule, resolution or ordinance to allow vehicles or combinations of vehicles with a loaded weight in excess of the weight limitations established by Table III under ORS 818.010 or a length or width in excess of that authorized under ORS 818.080 and 818.090 to be operated over any highway of the road authority if the road authority determines that the highway is capable of carrying greater weight, length or width. The authority granted under this section is subject to all of the following:

(1) The authority may only be exercised by rule, resolution or ordinance.

(2) The authority does not allow any road authority to authorize any vehicle to be operated over any highway if the vehicle has a height in excess of that allowed under ORS 818.080 and 818.090.

(3) The provisions of any rule, resolution or ordinance adopted under this section may be amended, rescinded or repealed at any time.

(4) The provisions of any rule, resolution or ordinance adopted under this section are subject to the maximum size, weight and width limits established under ORS 810.050.

(5) A rule, resolution or ordinance adopted under this section shall fix the maximum loaded weight, length, width and types and classes of vehicles or combinations of vehicles that may be operated on the highway or highways or sections of highways described in the rule, resolution or ordinance.

(6) A duplicate original of a rule or resolution adopted by the Department of Transportation under this section and an amendment to or repeal of a rule or resolution by the department shall be filed with the Secretary of State. This subsection does not require an ordinance adopted by a city or county under this section to be filed with the Secretary of State.

(7) After the effective date of a rule, resolution or ordinance adopted under this section, a variance permit under ORS 818.200 is not required for the operation upon the described highway of a vehicle or combination of vehicles that is not in excess of the maximum loaded weight, length or width fixed by the rule, resolution or ordinance for vehicles or combinations of vehicles of that type or class.

(8) Penalties are provided under ORS 818.060 for violation of limits established under this section. [1983 c.338 §150; 1985 c.16 §48]

810.070 Use of golf carts on highways; rules. A road authority, on any of its own highways that are located adjacent to a golf course, may permit the operation of golf carts between the golf course and the place where golf carts are parked or stored or located within or bounded by a real estate development. All of the following apply to the authority granted under this section:

(1) Exercise of the authority granted under this section must be by means of an ordinance.

(2) The authority granted under this section may only be exercised where the combined operation of golf carts and regular vehicle traffic can be accomplished safely.

(3) A road authority shall prescribe rules and shall regulate the combined operation of golf carts and vehicles when permitted under this section. The rules may establish speed limits and other operating standards but shall not require that golf carts conform with the vehicle equipment laws under the vehicle code.

(4) A designation of combined operation under this section or rules instituted under this section are effective when appropriate signs giving notice thereof are posted along the affected highway and are not effective before such posting.

(5) If a designation is made under this section to permit combined operation, the golf carts operated in accordance with the designation and rules adopted by the road authority qualifies for the exemptions under ORS 820.210.

(6) This section only applies to real estate developments that have single or multiple family residences whose owners or occupants are eligible for membership in or the use of one or more golf courses within the development by virtue of ownership or occupancy of a residential dwelling unit in the development.

(7) This section neither grants authority to nor limits the authority of the Department of Transportation. [1983 c.338 §151; 2003 c.757 §2]

810.080 Pedestrian traffic. (1) Road authorities may regulate the movement of pedestrians upon highways within their jurisdictions by doing any of the following:

(a) Establishing marked crosswalks and designating them by appropriate marking.

(b) Closing a marked or unmarked crosswalk and prohibiting pedestrians from crossing a roadway where a crosswalk has been closed by placing and maintaining signs giving notice of closure.

(c) Prohibiting pedestrians from crossing a highway at any place other than within a marked or unmarked crosswalk.

(2) This section neither grants authority to nor limits the authority of the Department of Transportation. [1983 c.338 §152]

810.090 Bicycle racing. Bicycle racing is permitted on any highway in this state upon the approval of, and under conditions imposed by, the road authority for the highway on which the race is held. [1983 c.338 §153]

810.100 Restriction of animal traffic to bridle paths. Each incorporated community within this state has power, by law or ordinance duly enacted, to regulate the use of its streets by horses and other animals to the extent that bridle paths may be designated upon certain streets and the animals may be prohibited on other streets. [1983 c.338 §154]

810.110 Designation of through highways and stop intersections. (1) Each road authority may do any of the following on its own highways:

(a) Designate a main traveled or through highway by placing traffic control devices at the entrances to the highway from intersecting highways to notify drivers to stop or yield the right of way before entering or crossing the designated highway.

(b) Designate intersections or other roadway junctions at which vehicle traffic on one or more of the highways should yield or stop before entering the intersection or junction.

(2) The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. [1983 c.338 §155]

810.120 Designation of no passing zones. (1) Each road authority may do the following on its own highways:

(a) Determine where overtaking or passing or driving to the left of the center of the roadway would be especially hazardous; and

(b) Establish zones on the roadway where overtaking or passing or driving to the left of the center of the roadway are prohibited because such would be especially hazardous.

(2) To establish a zone under this section, a road authority must do all of the following:

(a) Determine that a need for a zone exists in accordance with standards and procedures adopted by the Department of Transportation.

(b) Mark the zone by appropriate signs or by a yellow unbroken line on the pavement of the right-hand side of and adjacent to the center line or a lane line of the roadway to indicate the beginning and end of the zone.

(3) Penalties are provided under ORS 811.420 for passing in a no passing zone designated under this section. [1983 c.338 §156]

810.130 One-way highways; safety zones; turns. The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. Each road authority may do any of the following on its own highways, subject to any limitations described:

(1) Designate a highway or section or specific lane on a highway where vehicle traffic must proceed in one direction at all times or at times indicated by traffic control devices. A designation under this subsection shall become effective when appropriate signs are posted. The authority granted by this subsection is subject to the following limitations:

(a) A local authority shall not designate any highway within its boundaries as a one-way highway if the highway is under the jurisdiction of the commission unless the local authority first obtains the written consent of the commission.

(b) A city shall not designate any highway within its boundaries as a one-way highway if the highway is under the jurisdiction of a county unless the city first obtains the written consent of the county.

(2) Designate places on highways as safety zones and regulate and control traffic with respect to the safety zones. A designation under this subsection shall become effective when appropriate signs are posted.

(3) Where traffic conditions warrant, prohibit right or left turns at intersections or prohibit U-turns by all vehicles or by certain types of vehicles.

(4) Require and direct that a different course than that specified under ORS 811.340, 811.345 and 811.355 be traveled by vehicles at or proceeding through intersections. A requirement under this subsection is effective when appropriate traffic control devices are placed within or adjacent to the intersections.

(5) Designate locations on highways where vehicles operated by districts described under ORS chapter 267 for the purpose of providing public transportation or substantially similar vehicles used for the same purpose may proceed in directions prohibited to other traffic. Locations may be designated under this subsection only if an engineering study indicates that the movement may be made safely in the designated area. Designations under this subsection shall be effective when indicated by appropriate official traffic control devices. [1983 c.338 §157; 1985 c.16 §49]

810.140 Designation of exclusive use lanes. (1) Any road authority may designate lanes on its own highways that are to be used exclusively by buses or high occupancy-use passenger vehicles for the purpose of conserving energy and facilitating public transportation.

(2) Any restriction or limitation imposed under this section must be imposed by proper order. The restriction or limitation is effective when appropriate signs giving notice of the restriction or limitation are erected. A sign giving notice of a restriction or limitation shall be maintained in a conspicuous manner and shall be placed at each end of the highway or section of highway affected by the restriction or limitation and at such other places as necessary to inform the public.

(3) Penalties are provided under ORS 811.265 for failure to obey signs giving notice of any limitations or restrictions imposed under this section. [1983 c.338 §158; 1985 c.16 §50]

810.150 Drain construction; compliance with bicycle safety requirements; guidelines. (1) Street drains, sewer drains, storm drains and other similar openings in a roadbed over which traffic must pass that are in any portion of a public way, highway, road, street, footpath or bicycle trail that is available for use by bicycle traffic shall be designed and installed, including any modification of existing drains, with grates or covers so that bicycle traffic may pass over the drains safely and without obstruction or interference.

(2) The Department of Transportation shall adopt construction guidelines for the design of public ways in accordance with this section. Limitations on the applicability of the guidelines are established under ORS 801.030. [1983 c.338 §159]

(Parking)

810.160 Controlling parking on highways; limitations. Except as otherwise provided in this section, each road authority has exclusive authority to regulate, control or prohibit the stopping, standing and parking of vehicles upon its own highways. The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. The authority granted in this section is subject to all of the following:

(1) The commission has exclusive authority to regulate, control or prohibit the stopping, standing and parking on all state highways:

(a) Within the corporate limits of a city except where the highway is routed over a city street under ORS 373.010.

(b) Within the corporate limits of any city if access to or from the section of highway and real property abutting thereon was restricted, controlled or prohibited by the commission before the section of highway was included within the corporate limits of the city.

(2) Road authorities other than the commission may permit angle parking on any highway where parking is subject to their jurisdiction under this section. For cities, this subsection includes authority to permit angle parking on any city street selected and designated as the route of a state highway under ORS 373.010 and, subject to the authority of the commission under this section, any state highway within the corporate limits of the city. This subsection does not allow any road authority to permit angle parking on a state highway if the commission determines that the highway is not of sufficient width to permit angle parking without interfering with the free movement of traffic.

(3) All regulations, restrictions or prohibitions imposed by the commission under this section shall be by resolution or order entered in the commission's official records.

(4) Regulations, restrictions or prohibitions imposed by the commission under this section shall become effective and have the force of law when signs or markings giving notice thereof have been placed. To comply with this subsection, the commission shall place and maintain appropriate signs or markings at such places as may be necessary to inform the public and to give notice of all regulations, restrictions or prohibitions the commission establishes under this section.

(5) Penalties are provided under ORS 811.575 for violation of restrictions placed on state highways under this section. [1983 c.338 §160]

810.170 Winter recreation parking locations; plowing; priorities; enforcement. (1) The Oregon Transportation Commission shall designate winter recreation parking locations throughout this state where parking is prohibited under ORS 811.590 except for vehicles exempted under that section and vehicles with winter recreation parking permits issued under ORS 811.595. The commission may identify access roads to winter recreation facilities, roadside plow-outs and other areas as winter recreation parking locations under this section. The commission shall designate winter recreation parking locations under this section after consultation with the Winter Recreation Advisory Committee established under ORS 802.350 and with land management agencies managing adjacent land.

(2) The commission shall establish priorities for plowing the winter recreation parking locations established under this section. The commission shall establish priorities under this section after consultation with the Winter Recreation Advisory Committee established under ORS 802.350. The Department of Transportation shall provide for the removal of snow accumulating on winter recreation parking locations established under this section according to the priorities established by the commission under this section. Snow removal provided for under this subsection may be performed by any of the following:

(a) By the department itself.

(b) By persons with whom the department contracts. If the department contracts with persons for the removal of snow under this paragraph payments under the contracts shall be made from funds designated for that purpose under ORS 802.110.

(3) The commission may enter into agreements with county or municipal law enforcement agencies or individual police officers for the enforcement of ORS 811.590. The commission shall only enter into agreements under this subsection after consultation with the Winter Recreation Advisory Committee established under ORS 802.350. [1983 c.338 §161]

(Speeds)

810.180 Designation of maximum speeds; rules. (1) As used in this section:

(a) "Designated speed" means the speed that is designated by a road authority as the

maximum permissible speed for a highway and that may be different from the statutory speed for the highway.

(b) "Statutory speed" means the speed that is established as a speed limit under ORS 811.111, or is established as the speed the exceeding of which is prima facie evidence of violation of the basic speed rule under ORS 811.105.

(2)(a) A designated speed established under this section is a speed limit if the highway for which the speed is designated is subject to a statutory speed limit under ORS 811.111 that is in addition to the speed limit established under ORS 811.111 (1)(b).

(b) A speed greater than a designated speed established under this section is prima facie evidence of violation of the basic speed rule if the designated speed is established for a highway on which there is no speed limit other than the limit established under ORS 811.111 (1)(b).

(3) The Department of Transportation may establish by rule designated speeds on any specified section of interstate highway if the department determines that speed limits established under ORS 811.111 (1) are greater or less than is reasonable or safe under the conditions that exist with respect to that section of the interstate highway. Designated speeds established under this subsection are subject to all of the following:

(a) The department may not establish a designated speed under this subsection of more than:

(A) Sixty-five miles per hour for vehicles described in ORS 811.111 (1)(b); and

(B) Seventy miles per hour for all other vehicles.

(b) If the department establishes designated speeds under this subsection that are greater than 65 miles per hour, the designated speed for vehicles described in ORS 811.111 (1)(b) must be at least five miles per hour lower than the designated speed for all other vehicles on the specified section of interstate highway.

(c) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the interstate highway is greater or less than is reasonable or safe under conditions the department finds to exist.

(d) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the section of interstate highway where the designated speed is imposed.

(4)(a) The department may establish, pursuant to a process established by rule, a designated speed on a state highway outside of a city. The authority granted under this subsection includes, but is not limited to, the authority to establish different designated speeds for different kinds or classes of vehicles as the department determines reasonable and safe. A designated speed established under this subsection for any kind or class of vehicles may not exceed the speed limit for the highway for that kind or class of vehicles as established in ORS 811.111 or, if there is no speed limit for the highway other than the limit established in ORS 811.111 (1)(b), may not exceed 55 miles per hour.

(b) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the highway is greater or less than is reasonable or safe under conditions the department finds to exist.

(c) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the portion of highway where the designated speed is imposed.

(5) After a written request is received from a road authority for a highway other than a highway described in subsection (3) or (4) of this section, the department, pursuant to a process established by rule, may establish a designated speed for the highway. The authority granted under this subsection includes, but is not limited to, the authority to establish different designated speeds for different kinds or classes of vehicles as the department determines reasonable and safe. The authority granted under this subsection is subject to all of the following:

(a) The written request from the road authority must state a recommended designated speed.

(b) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the highway is greater or less than is reasonable or safe under conditions the department finds to exist.

(c) The department may not make a final decision to establish a designated speed under this subsection without providing the affected road authorities with notice and opportunity for a hearing.

(d) A road authority may file a written objection to a designated speed that is proposed by the department under this subsection and that affects the road authority.

(e) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the portion of the highway

where the designated speed is imposed. The expense of erecting any sign under this subsection shall be borne by the road authority having jurisdiction over the portion of the highway where the designated speed is imposed.

(f) The department, pursuant to a process established by rule, may delegate its authority under this subsection with respect to highways that are low volume or unpaved to a city or county with jurisdiction over the highway. The department shall delegate authority under this paragraph only if it determines that the city or county will exercise the authority according to criteria adopted by the department.

(6) The department may override the speed limit established for ocean shores under ORS 811.111 (1)(c) and establish a designated speed of less than 25 miles per hour on any specified section of ocean shore if the department determines that the speed limit established under ORS 811.111 (1)(c) is greater than is reasonable or safe under the conditions that exist with respect to that part of the ocean shore. The authority granted under this subsection is subject to all of the following:

(a) The department may make the determination required under this subsection only on the basis of an investigation.

(b) A designated speed established under this subsection is effective when posted upon appropriate fixed or variable signs on the portion of ocean shore where the designated speed is imposed.

(7) A road authority may adopt a designated speed to regulate the speed of vehicles in parks under the jurisdiction of the road authority. A road authority regulating the speed of vehicles under this subsection shall post and maintain signs at all park entrances to give notice of any designated speed.

(8) A road authority may establish by ordinance or order a temporary designated speed for highways in its jurisdiction that is lower than the statutory speed. A temporary designated speed may be established under this subsection if, in the judgment of the road authority, the temporary designated speed is necessary to protect any portion of the highway from being unduly damaged, or to protect the safety of the public and workers when temporary conditions such as construction or maintenance activities constitute a danger. The following apply to the authority granted under this subsection:

(a) Statutory speeds may be overridden by a temporary designated speed only:

(A) For a specific period of time for all vehicles; or

(B) For a specified period of time for a specific kind or class of vehicle that is causing identified damage to highways.

(b) This subsection may not be used to establish a permanent designated speed.

(c) The authority granted by this subsection may be exercised only if the ordinance or order that imposes the temporary designated speed:

(A) Specifies the hazard, damage or other condition requiring the temporary designated speed; and

(B) Is effective only for a specified time that corresponds to the hazard, damage or other condition specified.

(d) A temporary designated speed imposed under this subsection must be imposed by a proper written ordinance or order. A sign giving notice of the temporary designated speed must be posted at each end of the portion of highway where the temporary designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The temporary designated speed shall be effective when signs giving notice of the temporary designated speed are posted.

(9) A road authority may establish an emergency speed on any highway under the jurisdiction of the road authority that is different from the existing speed on the highway. The authority granted under this subsection is subject to all of the following:

(a) A speed established under this subsection is effective when appropriate signs giving notice thereof are posted upon the highway or portion of highway where the emergency speed is imposed. All signs posted under this subsection must comply with ORS 810.200.

(b) The expense of posting any sign under this subsection shall be borne by the road authority having jurisdiction over the highway or portion of highway where the emergency speed is imposed.

(c) A speed established under this subsection may be effective for not more than 120 days.

(10) A road authority may establish by ordinance a designated speed for a highway under the jurisdiction of the road authority that is five miles per hour lower than the statutory speed. The following apply to the authority granted under this subsection:

(a) The highway is located in a residence district.

(b) The statutory speed may be overridden by a designated speed only if:

(A) The road authority determines that the highway has an average volume of fewer

than 2,000 motor vehicles per day, more than 85 percent of which are traveling less than 30 miles per hour; and

(B) There is a traffic control device on the highway that indicates the presence of pedestrians or bicyclists.

(c) The road authority shall post a sign giving notice of the designated speed at each end of the portion of highway where the designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The designated speed shall be effective when signs giving notice of the designated speed are posted.

(11) A city may establish by ordinance a designated speed for a highway under the jurisdiction of the city that is five miles per hour lower than the statutory speed. The following apply to the authority granted under this subsection:

(a) The highway is located in a residence district.

(b) The highway is not an arterial highway.

(c) The city shall post a sign giving notice of the designated speed at each end of the portion of highway where the designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The designated speed shall be effective when signs giving notice of the designated speed are posted.

(12) Notwithstanding ORS 801.430, as used in subsection (11) of this section, "residence district" includes territory not comprising a business district that is contiguous to a highway and has access to dwellings provided by alleys. [1983 c.338 §162; 1985 c.16 §51; 1987 c.887 §8; 1989 c.592 §3; 1991 c.728 §3; 1993 c.742 §118; 1995 c.79 §371; 1997 c.249 §227; 1999 c.59 §240; 2003 c.819 §2; 2005 c.77 §1; 2005 c.507 §1; 2011 c.384 §1; 2017 c.291 §1; 2019 c.515 §1]

810.190 [1983 c.338 §163; 1985 c.16 §52; repealed by 1993 c.742 §117]

(Traffic Control Devices)

810.200 Uniform standards for traffic control devices; uniform system of marking and signing highways. (1) The Oregon Transportation Commission may exercise the following authority with respect to the marking, signing and use of traffic control devices in this state:

(a) The commission shall adopt a manual and specifications of uniform standards for traffic control devices consistent with the provisions of the vehicle code for use upon highways in this state.

(b) The commission is authorized to provide a uniform system of marking and signing highways within the boundaries of this state.

(c) The commission is authorized to determine the character or type of traffic control devices to be used in this state.

(2) The authority granted under this section is subject to all of the following:

(a) The system of marking and signing established under this section shall correlate with and, as far as possible, conform to the system adopted in other states. The commission may include in the system signs and signals that show internationally recognized and approved symbols.

(b) So far as practicable, all traffic control devices in this state shall be uniform as to type and location.

(c) All traffic control devices placed or operated in this state shall conform to specifications approved by the commission.

(d) Stop signs and yield signs shall be illuminated at night or so placed as to be illuminated by the headlights of approaching vehicles or by street lights. [1983 c.338 §164; 1985 c.16 §53; 1993 c.522 §2]

810.210 Placement and control of traffic control devices. (1) The Oregon Transportation Commission is vested with exclusive jurisdiction over the installation at railroad-highway grade crossings of signs, signals, gates, protective devices or any other device to warn or protect the public at a railroad-highway crossing. The commission is granted exclusive authority under this subsection to determine the character or type of device to be used.

(2) Each road authority shall place, maintain and control traffic control devices used upon its own highway as the road authority considers necessary for the safe and expeditious control of traffic, necessary to carry out the provisions of the vehicle code or local traffic ordinances or necessary to regulate, warn or guide traffic. The commission shall act as road authority under this section in lieu of the Department of Transportation. The authority granted under this subsection is subject to all of the following:

(a) All traffic control devices erected and used under this subsection shall conform to the state manual and specifications established under ORS 810.200.

(b) The commission has general supervision with respect to the placing, construction and operation of traffic control devices under this subsection for the purpose of obtaining, so far as practicable, uniformity as to type and location of traffic control devices throughout the state.

(c) Only the commission has authority over a state highway whether or not the state highway is within the jurisdiction of another road authority. No traffic control

device shall be erected, maintained or operated upon any state highway under this subsection by any authority other than the commission, except with the written approval of the commission.

(d) When the governing body of a city makes a determination that placement or construction of a traffic control device on a highway within the city selected as a state highway under ORS 373.010 is necessary to carry out the provisions of the vehicle code or to regulate, warn or guide traffic, the city governing body shall submit written findings and recommendations to the Director of Transportation in support of placing or constructing the traffic control device on the state highway. If the director approves the findings and recommendations, the director shall notify the city governing body in writing and proceed to place or construct the traffic control device in accordance with the findings and recommendations. If the director does not notify the governing body of disapproval within 90 days after receipt of the findings and recommendations, the findings and recommendations shall be considered approved and the director shall proceed to place or construct the traffic control device in accordance with the findings and recommendations.

(e) The commission is authorized to classify, designate and mark both interstate and intrastate highways within the boundaries of this state. [1983 c.338 §165; 1985 c.16 §54; 1993 c.522 §3; 1993 c.741 §84; 1995 c.733 §88]

810.212 Requirements for certain speed limit signs. Any sign that is posted on a highway in this state that expresses a speed limit in kilometers per hour shall also show the speed limit in miles per hour. The limit in miles per hour shall be printed above the limit in kilometers per hour and shall be of equal size lettering. [1993 c.284 §2]

810.214 Signs prohibiting unmuffled engine brakes. (1) The Oregon Transportation Commission shall adopt uniform standards for posting signs prohibiting the use of unmuffled engine brakes as described in ORS 811.492.

(2) The commission is authorized to provide a uniform system of posting signs within the boundaries of the state. Any sign posted shall inform the driver that the use of unmuffled engine braking is prohibited and shall give the dollar amount of the maximum fine provided for violation of ORS 811.492.

(3) All signs placed shall conform to specifications approved by the commission. The commission may use signs that show internationally recognized and approved symbols. [1993 c.314 §11; 1999 c.1051 §228]

810.220 Exemption from traffic control device specifications. Official traffic control devices placed or constructed by road authorities before June 27, 1975, are not required to conform to specifications and location criteria approved by the Oregon Transportation Commission. Any new or amended specifications approved by the commission under ORS 810.200 after June 27, 1975, for the placement or construction of traffic control devices do not apply to such devices in place on June 27, 1975. However within a reasonable period after June 27, 1975, traffic control devices shall be altered or relocated to comply with the manual and specifications under ORS 810.200. [1983 c.338 §166]

810.230 Unlawful sign display; exceptions; penalty. (1) A person commits the offense of unlawful sign display if the person does any of the following:

(a) Without authority under ORS 810.200 or 810.210, places, maintains or displays upon or in view of any highway any sign, signal, marking or device that:

(A) Purports to be or is an imitation or resembles an official traffic control device or railroad sign or signal;

(B) Attempts to direct the movement of animal, pedestrian, vehicle or any other traffic; or

(C) Hides from view or interferes with the effectiveness of a traffic control device or railroad sign or signal.

(b) Places or maintains upon any highway any traffic sign or signal bearing thereon any commercial advertising device.

(2) This section does not prohibit the placing and maintaining of signs, markers or signals bearing thereon the name of an organization authorized to place the same by the appropriate public authority.

(3) Every prohibited sign, signal, marking or device is hereby declared to be a public nuisance and the authority with jurisdiction over the highway, without notice, may remove it or cause it to be moved.

(4) The offense described in this section, unlawful sign display, is a Class B traffic violation. [1983 c.338 §708; 1985 c.16 §342; 1995 c.383 §41]

810.240 Unlawful interference with traffic control device or railroad sign; penalty. (1) A person commits the offense of unlawful interference with a traffic control device or railroad sign if the person, without lawful authority and with criminal negligence, attempts to or does alter, deface, injure, knock down or remove any traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof.

(2) The offense described in this section, unlawful interference with traffic control device or railroad sign, is a Class A traffic violation. [1983 c.338 §709; 1995 c.383 §11]

810.243 Operation of flashing light indicating children in school zone. (1) Except as provided in subsection (2) of this section, a flashing light used as a traffic control device to indicate that children may be arriving at or leaving school and operated to provide notice under ORS 811.111 or 811.235 may be operated only at times when children are scheduled to arrive at or leave the school.

(2) A flashing light may be used to provide notice under ORS 811.111 or 811.235 of the presence of a school zone and may be operated between 7 a.m. and 5 p.m. on a day when school is in session if:

(a) The school has a parking lot located across the street from the school; and

(b) That street has a speed limit, or designated speed posted by authority granted under ORS 810.180, of 45 miles per hour or greater. [Formerly 811.106; 2015 c.139 §1]

810.245 Signs giving notice of consequences of traffic offenses committed in school zones. A road authority may post signs designed to give motorists notice of the provisions of ORS 811.235. The road authority may also develop procedures that enable individuals or entities to petition and pay for the erection of signs described in this section. [1997 c.682 §6]

810.247 Signs giving notice of multilane roundabouts. A road authority shall place signs prior to each multilane roundabout located on a highway under its jurisdiction that warns drivers of the hazard of driving next to a commercial motor vehicle. [2011 c.85 §4]

810.250 Use of traffic control device placement or legibility as evidence. (1) A person shall not be convicted of violating a provision of the vehicle code for which an official traffic control device is required if the device is not in proper position and legible to a reasonably observant person at the time and place of the alleged violation.

(2) Whenever a particular section of the vehicle code does not state that traffic control devices are required, the section is effective even though no devices are erected or in place.

(3) When a traffic control device is placed in position approximately conforming to the requirements of the traffic regulations or other laws of this state, the device is presumed to have been placed by an official act or at the direction of lawful authority unless the contrary is established by competent evidence.

(4) A traffic control device placed under the vehicle code or other laws or regulations of this state and purporting to conform to the lawful requirements pertaining to that device is presumed to comply with the requirements of the vehicle code unless the contrary is established by competent evidence. [1983 c.338 §167]

810.260 Standards for installation, operation and use of traffic control signal operating devices; rules. (1) The Department of Transportation shall adopt standards for the installation, operation and use of traffic control signal operating devices authorized under ORS 815.445. In adopting standards, the department shall consider the impact of traffic control signal operating devices on:

(a) Safety.

(b) The efficiency of emergency response operations.

(c) The requirements for traffic signal maintenance.

(d) The efficiency of public transit operations.

(e) Traffic flow.

(2) The Department of Transportation shall adopt rules establishing priorities and preemptive use among users of traffic control signal operating devices. The rules shall take into account:

(a) Local standards for response times to emergencies by emergency service providers; and

(b) The weight, operating speed and braking distance required for vehicles operated by all authorized users. [1997 c.507 §5]

COURTS

(Security for Appearance)

810.300 Security for appearance on traffic crime. (1) A court, including a magistrate or clerk or deputy clerk authorized by the magistrate, shall release a person brought before it if the person gives an adequate undertaking to appear in answer to the offense at the time and place fixed by the court. A court, as it deems appropriate, is authorized to accept and may require any of the following as security for the appearance of an arrested person before the court on a traffic crime:

(a) An automobile membership card as described under ORS 810.330 and subject to limitations under that section.

(b) A guaranteed arrest bond certificate as described under ORS 810.320 and subject to limitations under that section.

(c) A license as described under ORS 810.310 and subject to limitations under that section.

(d) Such sum as may be required by the court.

(2) A magistrate or clerk or deputy clerk authorized by the magistrate has authority to accept security for the appearance of a person arrested for a traffic crime and brought before the magistrate or clerk or deputy clerk, as provided in this section. The following apply to security that is accepted by a court under this section or that is forwarded to a court by a police office under ORS 810.448 or 810.450:

(a) The security shall be returned to the person when the person delivers any security amount required by the court. The court may require that any moneys deposited as security be applied against the security amount set by the court.

(b) If the magistrate does not have jurisdiction of the crime, the magistrate shall promptly forward the security accepted and all documents in connection with the case to the most conveniently located court having jurisdiction of the crime and in which the venue may properly be laid. [1983 c.338 §376; 1999 c.1051 §285]

810.310 Use of license as security deposit. The current valid license of a person that is issued by this state is acceptable, when authorized under ORS 810.300, as a security deposit for a person on a traffic crime. The use of a license as security under this section is subject to all of the following:

(1) Upon acceptance of the license as security, the magistrate or clerk or deputy clerk authorized by the magistrate shall issue the person a court bail driver permit under ORS 807.330.

(2) If the person appears at the time fixed, the person's license shall be returned to the person unless taken up by the court under ORS 809.275.

(3) If the person fails to appear at the time fixed, the court shall forward the license to the Department of Transportation along with a notification that the person failed to appear and a notification to suspend the driving privileges of the person. The department shall take action on the license and notice as provided under ORS 809.280. [1983 c.338 §377; 1985 c.16 §196; 1993 c.627 §4; 1999 c.1051 §286]

810.320 Use of guaranteed arrest bond certificate as security deposit. The unexpired guaranteed arrest bond certificate, as defined in ORS 742.372, of a member of an automobile club or automobile association is acceptable, when authorized under ORS 810.300, 810.448 or 810.450, as a security deposit for that member for any traffic crime, other than a felony, if the security deposit required does not exceed $1,000. The use of an unexpired guaranteed arrest bond certificate as a security deposit under this section is subject to all of the following:

(1) To qualify for use as a security deposit, a guaranteed arrest bond certificate must have a surety company that has become a surety on the certificate as provided under ORS 742.372 to 742.376.

(2) If the individual does not make the appearance, the surety for the certificate is subject on the undertaking of the surety under ORS 742.374 to any forfeiture or enforcement provision of any statute, charter or ordinance that otherwise applies to security deposits on their undertaking. [1983 c.338 §378; 1985 c.16 §197; 1989 c.634 §4; 1999 c.1051 §287]

810.330 Use of automobile membership card as security deposit. The unexpired membership card of any member of an automobile association is acceptable as a security deposit for that member as provided under this section. The use of an unexpired membership card as security deposit is subject to the following:

(1) The membership card may only be used as a security deposit:

(a) For the violation of any motor vehicle law of this state or traffic crime of any city in this state if the security amount in any individual case does not exceed $1,000; and

(b) When authorized under ORS 810.300, 810.448 or 810.450.

(2) To qualify for use as a security deposit, the membership card must be the card of an automobile association incorporated under the laws of this state that has deposited with and maintains with the State Treasurer the sum of $2,000 in cash or in bonds approved by the State Treasurer.

(3) If a person deposits that person's membership card as a security deposit and the person fails or neglects to appear in court at the time and place required, the magistrate or other officer before whom the case is brought, upon declaring a forfeiture of the security amount, shall at once notify the association of the forfeiture, and the amount thereof, by mail.

(4) The association, within five days after the receipt of notice, under subsection (2) of this section, shall remit the amount of the security amount so forfeited to the magistrate or other officer. If the association fails or refuses to remit the security amount within that period, the magistrate or other officer having the matter in charge or the district attorney shall notify the State Treasurer, who shall:

(a) Pay the security amount to the officer or magistrate lawfully entitled to receive it;

(b) Deduct that amount from the amount of deposit with the State Treasurer by the association under this section; and

(c) Immediately notify the association and require it to deposit a like sum with the State Treasurer.

(5) If the association fails or neglects for a period of 10 days to comply with the notice of the treasurer under subsection (3) of this section, the membership cards of such association shall not thereafter be accepted as a security deposit while the default continues.

(6) Upon the payment of the security amount under this section by the association, the membership card so deposited shall be immediately returned to the association by the officer who accepted it as a security deposit. [1983 c.338 §379; 1989 c.634 §5; 1999 c.1051 §288]

(Jurisdiction and Procedures)

810.340 Proceedings; jurisdiction of financial responsibility requirements and suspension. (1) All proceedings concerning traffic offenses shall conform to the provisions of the vehicle code and those provisions of ORS chapter 153 relating to traffic offenses.

(2) All circuit courts, municipal courts and justices of the peace have concurrent jurisdiction, within their respective city or county, of all violations of the provisions of the vehicle code relating to financial responsibility requirements or the suspension of driving privileges or registration. [1983 c.338 §380; 1985 c.16 §198; 1985 c.173 §5; 1985 c.725 §15; 1999 c.788 §60; 1999 c.1051 §141]

810.350 Procedures for overloading and certain other violations. (1) For offenses described in this section, a court or judicial officer:

(a) Shall make the owner or lessee of the vehicle a codefendant if appearance has not been made by the driver within 15 days of the date the driver was cited to appear in court.

(b) May dismiss the charges against the driver if the court finds:

(A) That the owner or lessee of the vehicle caused or permitted the driver to operate the vehicle or combination of vehicles in violation of the offenses described in this section; and

(B) That the owner or lessee is guilty of violating any such provision.

(2) This section applies to the following offenses:

(a) Operation without payment of appropriate registration fees under ORS 803.315.

(b) Violation of maximum weight limits under ORS 818.020.

(c) Violation of administratively imposed weight or size limits under ORS 818.060.

(d) Violation of maximum size limits under ORS 818.090.

(e) Exceeding maximum number of vehicles under ORS 818.110.

(f) Violation of posted limits on use of road under ORS 818.130.

(g) Violation of towing safety requirements under ORS 818.160.

(h) Operating a sifting or leaking load under ORS 818.300.

(i) Dragging objects on a highway under ORS 818.320.

(j) Unlawful use of devices without wheels under ORS 815.155.

(k) Unlawful use of metal objects on tires under ORS 815.160.

(L) Operation without pneumatic tires under ORS 815.170.

(m) Operation in violation of a vehicle variance permit under ORS 818.340.

(n) Failure to carry and display a permit under ORS 818.350.

(o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400. [1983 c.338 §381]

810.360 [1983 c.338 §383; repealed by 1999 c.1051 §32]

(Court-Related Offenses)

810.365 Failure to appear on certain parking offenses. If a vehicle owner cited under ORS 810.425 to appear in a circuit or justice court upon an alleged parking offense fails to appear on or before the date and time stated on the citation, the court and the Department of Transportation may take such actions as are otherwise authorized by law under the Oregon Vehicle Code in the case of a failure to appear, except that in no case may a warrant of arrest be issued nor a criminal prosecution for failure to appear be commenced unless the citing or prosecuting authority, more than 10 days prior thereto, has sent a letter to the registered owner at the address shown upon the records of the department advising the owner of the charge pending and informing the owner that the owner may be subject to arrest if the owner does not appear in the court within 10 days to answer the charge. The letter must be sent by certified mail, restricted delivery, return receipt requested. A warrant of arrest may not be issued nor a criminal prosecution for failure to appear be commenced if such a letter has not been sent or if the owner appears in court to answer the charge within 10 days after receiving the letter. [1987 c.687

§3; 1995 c.658 §115; 1999 c.59 §241; 1999 c.1051 §289; 2003 c.14 §489]

(Records)

810.370 Court to forward traffic conviction records to department; exceptions. (1) Within the time required by this section of the conviction, every court with jurisdiction over the offenses described in this section shall forward to the Department of Transportation a record of the conviction of any person in such court for a violation of any of the following that regulate the operation of motor vehicles on highways or streets:

(a) Offenses committed under the vehicle code or any other statute of this state.

(b) Offenses committed under any municipal ordinance.

(2) To comply with this section, a court must forward the record of conviction containing the date of any offense, any arrest and conviction. The record must be forwarded to the department within 24 hours of the time the defendant was sentenced by the court.

(3) A court is not required by this section to forward to the department a record of conviction for violation of any offense under any of the following sections: ORS 810.090, 811.555, 811.570, 811.580, 814.020 to 814.080, 814.120, 814.230, 814.410 to 814.480, 815.155, 815.160, 815.170, 818.020, 818.040, 818.060, 818.090, 818.110, 818.130, 818.160, 818.300, 818.320, 818.340, 818.350, 818.400, 820.400 or 822.220. [1983 c.338 §384; 1985 c.16 §199; 1987 c.138 §1]

810.375 Duties of judges or court clerks. (1) The judge or clerk of every court of this state having jurisdiction of any traffic offense, including all local and municipal judicial officers in this state:

(a) Shall keep a full record of every case in which a person is charged with any such offense.

(b) Shall send the Department of Transportation an abstract of conviction for any person who is convicted.

(c) Shall send the department a copy of any final judgment of conviction of any person that results in mandatory suspension or revocation of driving privileges or commercial driving privileges under ORS 809.409, 809.411, 809.510 to 809.545 or 813.400.

(d) Shall send the department a copy of any final judgment finding a person charged with a traffic offense guilty except for insanity and committed to the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351.

(2) The department shall keep such records in its office, and they shall be open to the inspection of any person during reasonable business hours.

(3) To comply with this section, a judge or clerk must comply with the following:

(a) Any information required by this section to be sent to the department must be sent within the time provided under ORS 810.370 and must include information required by ORS 810.370.

(b) Information may not be sent to the department under this section concerning convictions excluded from ORS 810.370. [Formerly 153.625; 2001 c.492 §8; 2003 c.402 §35; 2005 c.649 §18; 2011 c.708 §30; 2013 c.237 §24; 2017 c.442 §29]

810.380 [1985 c.744 §3; 1987 c.730 §19; 1987 c.904 §2; repealed by 1987 c.905 §37]

POLICE

(General Authority)

810.400 Uniform or badge required. Any police officer attempting to enforce the traffic laws of this state shall be in uniform or shall conspicuously display an official identification card showing the officer's lawful authority. [1983 c.338 §399]

810.410 Arrest and citation. (1) A police officer may arrest or issue a citation to a person for a traffic crime at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act as provided by ORS 133.235 and 133.310.

(2) A police officer may issue a citation to a person for a traffic violation at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act:

(a) When the traffic violation is committed in the police officer's presence; or

(b) When the police officer has probable cause to believe an offense has occurred based on a description of the vehicle or other information received from a police officer who observed the traffic violation.

(3) A police officer:

(a) Shall not arrest a person for a traffic violation.

(b) May stop and detain a person for a traffic violation for the purposes of investigation reasonably related to the traffic violation, identification and issuance of citation.

(c) May make an inquiry into circumstances arising during the course of a detention and investigation under paragraph (b) of this subsection that give rise to a reasonable suspicion of criminal activity.

(d) May make an inquiry to ensure the safety of the officer, the person stopped or other persons present, including an inquiry regarding the presence of weapons.

(e) May request consent to search in relation to the circumstances referred to in paragraph (c) of this subsection or to search for items of evidence otherwise subject to search or seizure under ORS 133.535.

(f) May use the degree of force reasonably necessary to make the stop and ensure the safety of the police officer, the person stopped or other persons present.

(g) May make an arrest of a person as authorized by ORS 133.310 (2) if the person is stopped and detained pursuant to the authority of this section.

(4) When a police officer at the scene of a traffic accident has reasonable grounds, based upon the police officer's personal investigation, to believe that a person involved in the accident has committed a traffic offense in connection with the accident, the police officer may issue to the person a citation for that offense. The authority under this subsection is in addition to any other authority to issue a citation for a traffic offense. [1983 c.338 §400; 1985 c.16 §212; 1991 c.720 §1; 1995 c.308 §1; 1997 c.682 §1; 1997 c.866 §§4,5; 1999 c.1051 §89; 2011 c.506 §48; 2011 c.644 §33]

810.415 Removal of vehicles, cargo or debris from roadway after collision. A law enforcement officer who comes to the scene of a collision described in ORS 811.700 may remove or direct the driver of a vehicle involved in the collision to remove from the roadway any vehicle, cargo or debris resulting from the collision. A person acting under the authority granted by this section is not liable for damage to a vehicle, cargo or debris caused by reasonable efforts at removal. [2003 c.410 §2; 2018 c.22 §8]

810.420 Use of speed measuring device; citation; training. (1) When the speed of a vehicle has been checked by a speed measuring device, the driver of the vehicle may be stopped, detained and issued a citation by a police officer if the officer is in uniform and has either:

(a) Observed the recording of the speed of the vehicle by the device; or

(b) Probable cause to detain based upon a description of the vehicle or other information received from the officer who has observed the speed of the vehicle recorded.

(2) A police officer may not issue a citation based on a speed measuring device unless the officer has taken and passed a training course, approved by the law enforcement agency that employs the officer, in the use of the speed measuring device. [1983 c.338 §401; 2001 c.444 §1]

810.425 Procedure in certain parking cases. (1) In all prosecutions of the owner of a vehicle for violation of ORS 811.555 (1)(b), 811.570 (1)(b), 811.575 (1)(b) and 811.585 (1)(b), of any parking regulations prescribed under ORS 276.002 or of an applicable ordinance, it shall be sufficient for a police officer to charge the defendant by an unsworn written notice if the notice clearly states:

(a) The date, place and nature of the charge.

(b) The time and place for defendant's appearance in court.

(c) The name of the issuing officer.

(d) The license number of the vehicle.

(2) The notice provided for in subsection (1) of this section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. In all other respects the procedure otherwise provided by law in such cases shall be followed. Notwithstanding ORS 153.042, the issuing officer need not have observed the act of parking, but need only have observed that the vehicle appeared to be parked in violation of ORS 811.555 (1)(b), 811.570 (1)(b), 811.575 (1)(b) and 811.585 (1)(b), of any parking regulations prescribed under ORS 276.002 or of an applicable ordinance.

(3) A circuit court and a justice court have concurrent jurisdiction over parking offenses committed within the county.

(4) This section does not apply to prosecutions under city ordinances but ORS 221.333 shall apply to such prosecutions. [1987 c.687 §2; 1995 c.658 §116; 1999 c.1051 §89a; 2007 c.175 §3]

810.430 Movement of illegally parked vehicles. A police officer who finds a vehicle parked or standing upon a highway in violation of ORS 811.555 or 811.570 may move the vehicle, cause it to be moved or require the driver or person in charge of the vehicle to move it. The authority to move vehicles under this section is in addition to any authority under ORS 819.110 and 819.120. [1983 c.338 §402; 1995 c.758 §6]

(Photo Red Light)

810.434 Photo red light; operation; evaluation. (1) Any city may, at its own cost, operate cameras designed to photograph drivers who:

(a) Violate ORS 811.265 by failing to obey a traffic control device; or

(b) Violate the speed limit established in ORS 811.111 by 11 miles per hour or greater or violate the designated speed posted under ORS 810.180 by 11 miles per hour or greater.

(2) Cameras operated under this section may be mounted on street lights or put in other suitable places.

(3) A city that chooses to operate a camera shall:

(a) Provide a public information campaign to inform local drivers about the use of cameras before citations are actually issued; and

(b) Once each biennium, conduct a process and outcome evaluation for the purposes of subsection (4) of this section that includes:

(A) The effect of the use of cameras on traffic safety;

(B) The degree of public acceptance of the use of cameras; and

(C) The process of administration of the use of cameras.

(4) By March 1 of each odd-numbered year, each city that operates a camera under this section shall present to the Legislative Assembly the process and outcome evaluation conducted by the city under subsection (3) of this section. [1999 c.851 §1; 1999 c.1051 §327; 2001 c.474 §1; subsection (5) of 2001 Edition enacted as 2001 c.474 §3; 2003 c.14 §491; 2003 c.339 §1; 2005 c.686 §1; 2007 c.640 §1; 2011 c.545 §65; 2017 c.288 §3]

810.435 Use of photographs. (1) Except as provided in subsection (2) of this section, photographs taken under ORS 810.434 may be submitted into evidence in a criminal trial, grand jury proceeding or other criminal proceeding for the purpose of proving or disproving a felony or a Class A misdemeanor.

(2) Photographs taken under ORS 810.434 may not be used in any criminal proceeding relating to the prosecution of a violation as described in ORS 153.008, other than for the purpose of proving or disproving a violation of:

(a) ORS 811.265;

(b) ORS 811.111 by 11 miles per hour or greater; or

(c) A designated speed posted under ORS 810.180 by 11 miles per hour or greater. [2001 c.474 §4; 2003 c.14 §492; 2003 c.339 §2; 2013 c.428 §1; 2017 c.288 §4]

810.436 Citations based on photo red light; response to citation. (1) Notwithstanding any other provision of law, if a city chooses to operate a camera that complies with this section and ORS 810.434, a citation for violation of ORS 811.265 may be issued on the basis of photographs from a camera taken without the presence of a police officer if the following conditions are met:

(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction indicating that compliance with traffic control devices is enforced through cameras.

(b) For each traffic control device at which a camera is installed, signs indicating that a camera may be in operation at the device are posted before the device at a location near the device.

(c) If the traffic control device is a traffic light, the yellow light shows for at least the length of time recommended by the standard set by the Institute of Transportation Engineers.

(d) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable, within 10 business days of the alleged violation.

(e) The registered owner is given 30 days from the date the citation is mailed to respond to the citation.

(f) A police officer who has reviewed the photograph signs the citation. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(2) Notwithstanding subsection (1) of this section, if the city issues a citation under ORS 810.437 for exceeding the speed limit under ORS 811.111 or designated speed posted under ORS 810.180 by 11 to 20 miles per hour, the city may not issue a citation under this section for violation of ORS 811.265 arising out of the same criminal episode, as defined in ORS 131.505.

(3) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(4) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation was issued and delivered as provided in this section.

(5) A person issued a citation under subsection (1) of this section may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (7) of this section or any other response allowed by law.

(6) A citation for violation of ORS 811.265 issued on the basis of photographs from a camera installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.

(7)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of innocence swearing or affirming that the owner was not the

driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of nonliability stating that at the time of the alleged violation the vehicle was in the custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be reissued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(8) The penalties for and all consequences of a violation of ORS 811.265 initiated by the use of a camera installed as provided in this section and ORS 810.434 are the same as for a violation initiated by any other means.

(9) A registered owner or an employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner or the employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. [1999 c.851 §2; 2001 c.104 §305; 2001 c.474 §2; 2001 c.535 §30a; 2003 c.14 §493; 2003 c.339 §3; 2005 c.686 §2; 2007 c.640 §2; 2017 c.288 §5]

810.437 Citations for speeding based on photo red light; response to citation. (1) Notwithstanding any other provision of law, if a city chooses to operate cameras that comply with this section and ORS 810.434, a citation for speeding may be issued on the basis of photographs from a camera and other technology, including but not limited to sensors, that measure the speed of a vehicle without the presence of a police officer if the following conditions are met:

(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction indicating that compliance with traffic laws is enforced through cameras and other technology.

(b) For each traffic control device at which a camera is installed, signs indicating that a camera system may be in operation at the traffic control device are posted before the device at a location near the device.

(c) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable, within 10 business days of the alleged violation.

(d) The registered owner is given 30 days from the date the citation is delivered to respond to the citation.

(e) A police officer who has reviewed the photograph and other data signs the citation. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(f) The person exceeded the speed limit or designated speed by 11 miles per hour or greater.

(2) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(3) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation was issued and delivered as provided in this section.

(4) A person issued a citation under subsection (1) of this section may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (6) of this section or any other response allowed by law.

(5) A citation issued under this section on the basis of photographs from a camera installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.

(6)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from delivery of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any

other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from delivery of the citation, a certificate of nonliability stating that at the time of the alleged violation the vehicle was in the custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be reissued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(7) The penalties for and all consequences of a speeding violation initiated by the use of a camera installed as provided in this section and ORS 810.434 are the same as for a violation initiated by any other means.

(8) A registered owner or an employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner or the employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. [2017 c.288 §2]

(Photo Radar)

810.438 Photo radar; authorized jurisdictions. (1) The following jurisdictions may, at their own cost, operate photo radar:

(a) Albany.

(b) Beaverton.

(c) Bend.

(d) Eugene.

(e) Gladstone.

(f) Medford.

(g) Milwaukie.

(h) Oregon City.

(i) Portland.

(j) Tigard.

(2) A photo radar system operated under this section:

(a) May be used on streets in residential areas or school zones.

(b) May be used in other areas if the governing body of the city makes a finding that speeding has had a negative impact on traffic safety in those areas.

(c) May not be used for more than four hours per day in any one location.

(d) May not be used on controlled access highways.

(e) May not be used unless a sign is posted announcing "Traffic Laws Photo Enforced." The sign posted under this paragraph must:

(A) Be on the street on which the photo radar unit is being used;

(B) Be between 100 and 400 yards before the location of the photo radar unit;

(C) Be at least two feet above ground level; and

(D) If posted in a school zone not otherwise marked by a flashing light used as a traffic control device, indicate that school is in session.

(3) A city that operates a photo radar system under this section shall, once each biennium, conduct a process and outcome evaluation for the purposes of subsection (4) of this section that includes:

(a) The effect of the use of the photo radar system on traffic safety;

(b) The degree of public acceptance of the use of the photo radar system; and

(c) The process of administration of the use of the photo radar system.

(4) By March 1 of each odd-numbered year, each city that operates a photo radar system under this section shall present to the Legislative Assembly the process and outcome evaluation conducted by the city under subsection (3) of this section. [1995 c.579 §1; 1997 c.280 §1; 1999 c.1071 §1; 2005 c.686 §3; 2007 c.634 §1; 2010 c.30 §9; 2011 c.545 §66; 2015 c.138 §25]

810.439 Citations based on photo radar; response to citation. (1) Notwithstanding any other provision of law, in the jurisdictions using photo radar:

(a) A citation for speeding may be issued on the basis of photo radar if the following conditions are met:

(A) The photo radar equipment is operated by a uniformed police officer.

(B) The photo radar equipment is operated out of a marked police vehicle.

(C) An indication of the actual speed of the vehicle is displayed within 150 feet of the location of the photo radar unit.

(D) Signs indicating that speeds are enforced by photo radar are posted, so far as is

practicable, on all major routes entering the jurisdiction.

(E) The citation is mailed to the registered owner of the vehicle within six business days of the alleged violation.

(F) The registered owner is given 30 days from the date the citation is mailed to respond to the citation.

(G) The jurisdiction operating photo radar complies with the requirements described in ORS 810.438.

(b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation is issued and delivered as provided in this section.

(c) A person issued a citation under this subsection may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (3) of this section or may make any other response allowed by law.

(2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting a certificate of innocence within 30 days from the mailing of the citation swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting a certificate of nonliability within 30 days from the mailing of the citation stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(4) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(5) The penalties for and all consequences of a speeding violation initiated by the use of photo radar are the same as for a speeding violation initiated by any other means.

(6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner, employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. [1995 c.579 §2; 1997 c.280 §2; 1999 c.1051 §142; 1999 c.1071 §2; 2005 c.22 §516; 2005 c.686 §4; 2007 c.634 §2]

810.440 [1983 c.338 §403; 1985 c.16 §213; 1999 c.1051 §290; renumbered 810.448 in 2013]

810.441 Photo radar; highway work zones. (1) The Department of Transportation may operate photo radar within a highway work zone that is located on a state highway. The photo radar unit may be operated only:

(a) In the area within a highway work zone when highway workers, as defined in ORS 811.230, are present. The photo radar unit may not be operated in a location more than 100 yards from where highway workers are present and, in the case of a divided state highway, the photo radar unit must be located on the same roadway where highway workers are present.

(b) When the configuration of the roadway is temporarily changed, including but not limited to temporary changes made to the number of usable lanes, lane width, shoulder width or curvature of the roadway. The photo radar unit may not be operated in a location more than 100 yards from where the configuration of the roadway is temporarily changed and, in the case of a divided state highway, the photo radar unit must be located on the same roadway where the highway configuration is temporarily changed.

(2) The department, at its own cost, may ask a jurisdiction authorized to operate photo radar under ORS 810.438 (1) or the Oregon State Police to operate a photo radar

unit in a highway work zone on a state highway.

(3) A photo radar unit operated under this section may not be used unless a sign is posted announcing that photo radar is in use. The sign posted under this subsection must be all of the following:

(a) Located on the state highway on which the photo radar unit is being used.

(b) Between 100 and 400 yards before the location of the photo radar unit.

(4) The department shall, once each biennium, conduct a process and outcome evaluation for the purposes of subsection (5) of this section that includes:

(a) The effect of the use of photo radar on traffic safety;

(b) The degree of public acceptance of the use of photo radar; and

(c) The process of administration of the use of photo radar.

(5) The department shall report to the Legislative Assembly by March 1 of each odd-numbered year.

(6) As used in this section, "highway work zone" has the meaning given that term in ORS 811.230. [2007 c.634 §4; 2013 c.373 §1]

810.442 Citations based on photo radar in highway work zones; response to citation. (1) Notwithstanding any other provision of law, when a jurisdiction or the Oregon State Police uses photo radar in a highway work zone:

(a) A citation for speeding may be issued on the basis of photo radar if the following conditions are met:

(A) The photo radar unit is operated by a uniformed police officer.

(B) The photo radar unit is operated out of a marked police vehicle.

(C) An indication of the actual speed of the vehicle is displayed within 150 feet of the location of the photo radar unit.

(D) The citation is mailed to the registered owner of the vehicle within six business days of the alleged violation.

(E) The registered owner is given 30 days from the date the citation is mailed to respond to the citation.

(F)(i) One or more highway workers, as defined in ORS 811.230, are present and the photo radar unit is operated within 100 yards from where highway workers are present and located on the same roadway where highway workers are present; or

(ii) The configuration of the roadway is temporarily changed within the highway work zone, including but not limited to temporary changes made to the number of usable lanes, lane width, shoulder width or curvature of the roadway, and the photo radar unit is operated within 100 yards from where the configuration of the roadway is temporarily changed and located on the same roadway where the highway configuration is temporarily changed.

(G) The jurisdiction operating photo radar complies with the requirements described in ORS 810.441.

(b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation is issued and delivered as provided in this section.

(c) A person issued a citation under this subsection may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (3) of this section or may make any other response allowed by law.

(2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of nonliability stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee, or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public

agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(4) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(5) The penalties for and all consequences of a speeding violation initiated by the use of photo radar are the same as for a speeding violation initiated by any other means.

(6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the registered owner, employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect.

(7) As used in this section, "highway work zone" has the meaning given that term in ORS 811.230. [2007 c.634 §5; 2013 c.373 §2]

(Temporary provisions relating to the use of photo radar in the City of Fairview)

Note: Sections 1, 2 and 3, chapter 697, Oregon Laws 2013, provide:

Sec. 1. (1) The City of Fairview may, at its own cost, operate a photo radar unit in a school zone between 7 a.m. and 5 p.m. on a day when school is in session.

(2) A photo radar unit operated under this section:

(a) May not be used on controlled access highways.

(b) May not be used unless a sign is posted announcing "Traffic Laws Photo Enforced." The sign posted under this paragraph must:

(A) Be on the street on which the photo radar unit is being operated;

(B) Be between 100 and 400 yards before the location of the photo radar unit;

(C) Be at least two feet above ground level; and

(D) If posted in a school zone not otherwise marked by a flashing light used as a traffic control device, indicate that school is in session.

(c) Must be capable of making a video recording of the conduct.

(3) The City of Fairview shall, once each biennium, conduct an outcome evaluation for the purposes of subsection (4) of this section that includes:

(a) The effect of the operation of the photo radar unit on traffic safety; and

(b) The degree of public acceptance of the operation of the photo radar unit.

(4) By March 1 of each odd-numbered year, the City of Fairview shall present to the Legislative Assembly the outcome evaluation conducted by the city under subsection (3) of this section in the manner provided in ORS 192.245. [2013 c.697 §1]

Sec. 2. (1) Notwithstanding any other provision of law, in the jurisdiction operating a photo radar unit under section 1 of this 2013 Act:

(a) A citation for speeding may be issued under section 1 of this 2013 Act on the basis of photo radar if:

(A) The school zone has a flashing light used as a traffic control device and operated under ORS 810.243, and the flashing light indicates that children may be arriving at or leaving school;

(B) A sign that provides drivers with information about the driver's current rate of speed is posted between 100 and 400 yards before each entrance to the school zone; and

(C) A police officer who has reviewed the video recording of the conduct signs the citation.

(b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation is issued and delivered as provided in this section.

(c) An individual issued a citation under this subsection may respond to the citation by submitting a certificate of innocence under subsection (3)(a) of this section or may make any other response allowed by law.

(d) A business or public agency issued a citation under this subsection may respond to the citation by submitting a certificate of nonliability under subsection (3)(b) of this section or may make any other response allowed by law.

(2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(3)(a) An individual named as the registered owner of a vehicle in current records of the Department of Transportation may respond by mail to a citation issued under subsection (1) of this section by submitting a certificate of innocence within 30 days from the mailing of the citation swearing or affirming that the registered owner was not the driver of the vehicle and by providing a photocopy of the registered owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency named as the registered owner of a vehicle in current records of the Department of Transportation responds to a citation issued under subsection (1) of this section by submitting a certificate of nonliability within 30 days from the mailing of the citation stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee, or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(4) If the registered owner, employee, renter or lessee fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(5) The penalties for and all consequences of a speeding violation initiated by the use of photo radar are the same as for a speeding violation initiated by any other means.

(6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the registered owner, employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. [2013 c.697 §2]

Sec. 3. Sections 1 and 2 of this 2013 Act are repealed on January 2, 2022. [2013 c.697 §3]

(Temporary provisions relating to the use of photo radar in the City of Portland)

Note: Sections 1 to 4, chapter 721, Oregon Laws 2015, provide:

Sec. 1. (1) As used in this section, "urban high crash corridor" means a segment of highway that has an incidence rate of reported traffic crashes resulting in fatalities or serious injuries that is at least 25 percent higher than the rate for highways with the same speed limit or designated speed within the jurisdiction on average between January 1, 2006, and January 1, 2016, and for which the governing body of the city makes a finding that speeding has had a negative impact on traffic safety.

(2) Notwithstanding ORS 810.438, the City of Portland may, at its own cost, operate a fixed photo radar system on urban high crash corridors.

(3) A fixed photo radar unit operated under this section:

(a) May not be used on controlled access highways.

(b) May not be used unless a sign is posted announcing "Traffic Laws Photo Enforced." The sign posted under this paragraph must:

(A) Be on the street on which the fixed photo radar unit is being operated;

(B) Be between 100 and 400 yards before the location of the fixed photo radar unit;

(C) Be at least two feet above ground level;

(D) Provide drivers with information about the driver's current rate of speed; and

(E) Conform with specifications for traffic control devices approved by the Oregon Transportation Commission under ORS 810.200.

(c) Must remain in the same location for at least 180 days.

(4) The City of Portland shall, once each biennium, conduct an outcome evaluation for the purposes of subsection (5) of this section that includes:

(a) The effect of the operation of the fixed photo radar system on traffic safety;

(b) The degree of public acceptance of the operation of the fixed photo radar system; and

(c) The process of administering the use of the fixed photo radar system.

(5) By March 1 of each odd-numbered year, the City of Portland shall present to the Legislative Assembly the outcome evaluation conducted by the city under subsection (4) of this section in the manner provided in ORS 192.245. [2015 c.721 §1]

Sec. 2. (1) Notwithstanding any other provision of law, in the jurisdiction operating a fixed photo radar system under section 1 of this 2015 Act:

(a) A citation for speeding may be issued on the basis of fixed photo radar if:

(A) A sign that provides drivers with information about the driver's current rate of speed is posted between 100 and 400 yards before the location of each fixed photo radar unit; and

(B) A police officer who has reviewed the photographic evidence of the conduct signs the citation.

(b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation is issued and delivered as provided in subsection (2) of this section.

(c) An individual issued a citation under this subsection may respond to the citation by submitting a certificate of innocence under subsection (3)(a) of this section or may make any other response allowed by law.

(d) A business or public agency issued a citation under this subsection may respond to the citation by submitting an affidavit of nonliability under subsection (3)(b) of this section or may make any other response allowed by law.

(2) A citation issued on the basis of fixed photo radar may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(3)(a) An individual named as the registered owner of a vehicle in current records of the Department of Transportation may respond by mail to a citation issued under subsection (1) of this section by submitting a certificate of innocence within 30 days from the mailing of the citation swearing or affirming that the registered owner was not the driver of the vehicle and by providing a photocopy of the registered owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency named as the registered owner of a vehicle in current records of the Department of Transportation responds to a citation issued under subsection (1) of this section by submitting an affidavit of nonliability within 30 days from the mailing of the citation stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee, or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the affidavit of nonliability.

(4) If the registered owner, employee, renter or lessee fails to respond to a citation issued under this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(5) The penalties for and all consequences of a speeding violation initiated by the use of fixed photo radar are the same as for a speeding violation initiated by any other means.

(6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the registered owner, employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. [2015 c.721 §2]

Sec. 3. Notwithstanding ORS 153.675, all of the amounts paid to the City of Portland under ORS 153.640 from citations issued under section 2 of this 2015 Act may be used only for the costs of operating and maintaining fixed photo radar units in urban high crash corridors, as defined in section 1 of this 2015 Act, and for improving traffic safety for all modes of transportation. [2015 c.721 §3]

Sec. 4. Sections 1, 2 and 3 of this 2015 Act are repealed on January 2, 2024. [2015 c.721 §4]

(Security for Appearance)

810.448 Security for appearance of person arrested for traffic crime. A police officer may take security for the appearance of a person arrested for a traffic crime if it appears to the officer that the arrested person might fail to appear in response to a citation. Authority granted by this section is in addition to any authority to accept security under ORS 810.450. The authority of an officer to take security under this section is subject to all of the following:

(1) Except as otherwise provided in this section, an officer may only take security if there is no accessible magistrate or clerk or deputy clerk authorized by the magistrate.

(2) Except as otherwise provided in this section, an officer may only accept as security the following, if the following would be acceptable under ORS 810.300, for a security deposit for the offense for which the arrest was made:

(a) An unexpired automobile membership card described under ORS 810.330; or

(b) An unexpired guaranteed arrest bond certificate described under ORS 810.320.

(3) An officer may take security for offenses described in this subsection whether or not there is an accessible magistrate or clerk or deputy clerk authorized by the magistrate. This subsection applies to the following offenses for which a jail sentence may be imposed:

(a) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

(b) Violation of posted weight limits under ORS 818.040.

(4) An officer who takes security under this section shall give a receipt for the security accepted and shall issue the person a citation to appear before a court having jurisdiction of the offense.

(5) An officer shall promptly cause any security accepted under this section to be delivered to the court for disposition as provided under ORS 810.300. [Formerly 810.440]

810.450 Security for appearance of person issued citation. A police officer who issues a citation for violation of an offense described in this section may accept security for the appearance of the person cited. Authority granted by this section is in addition to any authority to accept security under ORS 810.448. The authority of an officer to take security under this section is subject to all of the following:

(1) The officer may only accept security under this section for offenses described under ORS 810.530, other than the following:

(a) Violation of manufactured structure trip permit requirements under ORS 820.570.

(b) Violation of a provision of ORS chapter 825.

(c) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

(d) Violation of posted weight limits under ORS 818.040.

(2) An officer shall give a receipt for the security accepted along with the citation to appear before a court having jurisdiction of the offense.

(3) The officer shall promptly cause the security to be delivered to the court for disposition as provided under ORS 810.300. [1983 c.338 §404; 1985 c.16 §214]

(Accident Reports)

810.460 Officer's accident report; use. (1) A police officer shall submit a report to the Department of Transportation whenever the officer does any of the following:

(a) Investigates a vehicle accident which ORS 811.725 or 822.600 requires to be reported.

(b) Prepares a report of an accident investigated at the time and place of the accident or by field interviews with the participants or witnesses.

(2) A police officer shall submit a report required by this section to the department within 10 days of the investigation or preparation of the report.

(3) Police reports submitted to the department under this section are subject to release or use as provided under ORS 802.240. [1983 c.338 §406; 1985 c.16 §216; 1993 c.224 §4; 1993 c.751 §63; 1997 c.678 §12]

810.470 [1983 c.338 §407; 1993 c.224 §5; 1993 c.751 §64; 1997 c.678 §13; repealed by 2005 c.195 §3]

(Stops and Inspections)

810.480 Inspections involving vehicle dealers and dismantlers. (1) A police officer, during normal business hours, may inspect the records a vehicle dealer is required to keep under ORS 822.045 and vehicles included in the inventory or located on the premises of a dealer issued a certificate under ORS 822.020. The inspections shall be

limited in scope to that necessary to determine compliance with the regulation of dealers under the vehicle code and with vehicle title and registration provisions under the vehicle code and for the purposes of identifying stolen vehicles.

(2) A police officer, at any time, may inspect the books, records and inventory of and premises used by any business issued a certificate under ORS 822.110 for the purpose of determining whether the provisions relating to the regulation of dismantlers, rules adopted by the Department of Transportation relating to the regulation of dismantlers and laws relating to licensing, titling and wrecking of vehicles are being complied with. Every business issued a certificate under ORS 822.110 shall be inspected not less than two times each year. [1983 c.338 §408; 2005 c.654 §38]

810.490 Weighing and measuring vehicles; citation; reduction of load. (1) Any police officer may stop, measure and weigh any vehicle or combination of vehicles by means of either portable or stationary measures and scales, and having reason to believe that any vehicle or combination of vehicles, including any load thereon, is unlawful, or having reason to believe that the combined weight or loaded weight of the vehicle exceeds the registration weight for the vehicle, may require that such vehicle or combination of vehicles be driven to the nearest public or certified scales, in the event such scales are within five miles. When it is necessary for the vehicle or combination of vehicles to reverse direction in order to proceed to the scales, the police officer shall assist the driver of the vehicle or combination of vehicles so that the turning movement can be made in safety.

(2) If the police officer finds that the vehicle or combination of vehicles, including any load thereon, is of any dimension or has any weight not authorized by ORS 818.010, 818.020, 818.040, 818.060, 818.080, 818.090, 818.110 and 818.130 or not authorized by the terms of any permit issued under ORS 818.200, the police officer shall require the driver to move the vehicle or combination of vehicles to a suitable place and remain standing while a Uniform Traffic Citation and Complaint is being issued and until such portion of the load is removed as may be necessary to reduce any dimension and any weight to the limits authorized by the statute or permit. All material or goods removed from the load shall be removed and cared for by the driver, chauffeur or owner of the vehicle or combination of vehicles at the risk of the driver, chauffeur or owner of the vehicle.

(3) The police officer may, within the discretion of the officer, permit the driver to proceed without removing the excess dimensions, or weights if the amount of excess weight does not exceed the following:

Individual wheel	500	pounds
Axle	1,000	pounds
Tandem axles	2,000	pounds
Group of axles	3,000	pounds
Vehicle or combination of vehicles	4,000	pounds

(4) Discretionary action by the police officer under this section does not relieve the driver or chauffeur and owner of the vehicle or combination of vehicles of any criminal or other liability or responsibility.

(5) Failure to comply with a police officer's directions under this section is subject to penalty under ORS 818.400. [1983 c.338 §409; 1985 c.16 §217; 1989 c.723 §17; 1991 c.284 §24; 1999 c.352 §3; 2007 c.50 §4]

810.500 Stopping and testing vehicles for equipment violations. (1) A police officer may require the driver of a vehicle or combination of vehicles to stop the vehicle or combination and submit to tests by the officer as may be appropriate to determine if the vehicle or combination:

(a) Is being driven or moved on any street or highway without having equipment required by the vehicle code or without the equipment in proper condition and adjustment as required by the vehicle code; or

(b) Is in such unsafe condition as to endanger any person.

(2) A police officer must have reasonable cause to require that a vehicle or combination be stopped and submitted to tests under this section. [1983 c.338 §410]

810.510 State police inspection for mechanical condition and equipment. (1) A state police officer may require a person driving a vehicle or combination of vehicles on a street or highway to stop and submit the vehicle or combination to an inspection of the mechanical condition and equipment thereof at any location where members of the Oregon State Police are conducting tests and inspections of vehicles and when signs are displayed requiring such stop.

(2) If a vehicle inspected under this section is found to be in violation of any provision of the vehicle code, the police officer may issue a vehicle repair warning described under ORS 810.520 to the driver. The officer may, in lieu of the issuance of the vehicle repair warning or in combination therewith, issue a citation or written warning for the violation. [1983 c.338 §411; 1985 c.16 §218]

810.520 Vehicle repair warning. (1) A vehicle repair warning issued under ORS 810.510 shall:

(a) Be in writing;

(b) Require that the vehicle be placed in a safe condition and its equipment in proper repair and adjustment;

(c) Specify the particulars with reference to condition, equipment, repair or adjustments required; and

(d) Require that approval of the repair or adjustment be obtained within 15 days.

(2) Approval required by this section may be obtained by presenting satisfactory proof to any office of the Oregon State Police that the defect has been corrected.

(3) If an owner or driver is issued a vehicle repair warning described in this section, the vehicle described in the warning:

(a) Shall be brought into compliance with the warning and within 15 days the owner or driver must secure approval of the compliance; or

(b) Shall not be operated upon the highways of this state.

(4) This section is not intended to preclude the issuance of citations for equipment violations if repair or adjustment required by a vehicle repair warning is not perfected within 15 days.

(5) In lieu of compliance with this section the vehicle shall not be operated on the highways of this state. [1983 c.338 §412; 1985 c.16 §219]

OTHER ENFORCEMENT OFFICIALS

810.530 Authority of weighmasters and motor carrier enforcement officers. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed may arrest or issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer. This subsection applies to the following offenses:

(a) Violation of maximum weight limits under ORS 818.020.

(b) Violation of posted weight limits under ORS 818.040.

(c) Violation of administratively imposed weight or size limits under ORS 818.060.

(d) Violation of maximum size limits under ORS 818.090.

(e) Exceeding maximum number of vehicles in combination under ORS 818.110.

(f) Violation of posted limits on use of road under ORS 818.130.

(g) Violation of towing safety requirements under ORS 818.160.

(h) Operating with sifting or leaking load under ORS 818.300.

(i) Dragging objects on highway under ORS 818.320.

(j) Unlawful use of devices without wheels under ORS 815.155.

(k) Unlawful use of metal objects on tires under ORS 815.160.

(L) Operation without pneumatic tires under ORS 815.170.

(m) Operation in violation of vehicle variance permit under ORS 818.340.

(n) Failure to carry and display permit under ORS 818.350.

(o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

(p) Violation of any provision of ORS chapter 825.

(q) Operation without proper fenders or mudguards under ORS 815.185.

(r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is operating a commercial motor vehicle and the person does not have commercial driving privileges.

(s) Violation driving while suspended or revoked in violation of ORS 811.175 if the person is operating a commercial motor vehicle while the person's commercial driving privileges are suspended or revoked.

(t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is operating a motor vehicle subject to ORS chapter 825 or 826.

(u) Illegally altering or displaying registration plate in violation of ORS 803.550.

(2) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed by a person operating a commercial motor vehicle may issue a citation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that an offense described in this subsection has been committed by a person operating a commercial motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation issued under this subsection to the operator of a commercial motor vehicle shall be considered to have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not the owner.

This subsection applies to the following offenses, all of which are Class A traffic violations under ORS 825.990 (1):

(a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.

(b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service authorized by certificate.

(c) Refusing or failing to file the annual report as required by ORS 825.320.

(d) Refusing or failing to maintain records required by the department or to produce such records for examination as required by the department.

(e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under investigation.

(f) Filing with the department an application that is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.

(g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS chapter 825 or 826.

(h) Refusing or failing to file a deposit or bond as required under ORS 825.506.

(i) Failing to comply with the applicable requirements for attendance at a motor carrier education program as required by ORS 825.402.

(3) A weighmaster or motor carrier enforcement officer who finds evidence that a person operating a commercial motor vehicle has committed the offense of failure to pay the appropriate registration fee under ORS 803.315 may issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.

(4) The authority of a weighmaster or motor carrier enforcement officer to issue citations or arrest under this section is subject to ORS chapter 153.

(5)(a) A person is a weighmaster for purposes of this section if the person is a county weighmaster or a police officer.

(b) A person is a motor carrier enforcement officer under this section if the person is duly authorized as a motor carrier enforcement officer by the Department of Transportation.

(6) A weighmaster or motor carrier enforcement officer may accept security in the same manner as a police officer under ORS 810.440 and 810.450 and may take as security for the offenses, in addition to other security permitted under this section, the sum fixed as the presumptive fine for the offense.

(7) A weighmaster or motor carrier enforcement officer may arrest a person for the offense of failure to appear in a violation proceeding under ORS 153.992 if the violation is based upon a citation for any offense described in subsection (1) or (3) of this section except those described in subsection (1)(p) of this section.

(8) A weighmaster or motor carrier enforcement officer may exercise the same authority as a police officer under ORS 810.490 to enforce vehicle requirements and detain vehicles. A person who fails to comply with the authority of a weighmaster or motor carrier enforcement officer under this subsection is subject to penalty under ORS 818.400. [1983 c.338 §414; 1985 c.16 §220; 1991 c.263 §1; 1993 c.741 §99; 1999 c.1051 §291; 2001 c.335 §7; 2001 c.520 §2; 2003 c.655 §119a; 2009 c.482 §4; 2011 c.597 §146; 2013 c.237 §25; 2017 c.45 §1]

810.540 Enforcement of snowmobile and all-terrain vehicles violations by persons other than police officers. Game wardens and all other state law enforcement officers within their respective jurisdictions shall enforce the provisions relating to snowmobiles and all-terrain vehicles under ORS 821.190, 821.210, 821.220 and 821.240 to 821.290. The authority granted by this section to enforce laws relating to snowmobiles and all-terrain vehicles is in addition to any authority of police officers to enforce such laws. [1983 c.338 §415; 1987 c.217 §7; 1987 c.587 §23; 1989 c.991 §5a; 2007 c.71 §245]

810.550 Authority of railroad officers to move illegally parked vehicles. When a regularly employed officer of a railroad commissioned to act as a police officer by the Governor under ORS 131.880 finds a vehicle parked or standing upon any railroad track or within seven and one-half feet of the nearest rail in violation of ORS 811.555, the person may move the vehicle, cause it to be moved or require the driver or person in charge of the vehicle to move it to a position more than seven and one-half feet from the nearest rail. [1983 c.338 §416]

810.560 Certification and training of commercial vehicle inspectors. Before an enforcement official may conduct inspections of commercial vehicles, drivers or cargoes for purposes of enforcing rules adopted under ORS 825.252 and 825.258, the official shall be trained and certified as a commercial vehicle inspector by the Department of Transportation. [1995 c.574 §3]

Chapter 811

2019 EDITION

Rules of the Road for Drivers

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DUTIES TO PEDESTRIANS AND BICYCLES

811.005 Duty to exercise due care. None of the provisions of the vehicle code relieve a pedestrian from the duty to exercise due care or relieve a driver from the duty to exercise due care concerning pedestrians. [1983 c.338 §543]

811.010 [1983 c.338 §544; 1985 c.16 §279; 2003 c.278 §1; repealed by 2005 c.746 §4]

811.015 Failure to obey traffic patrol member; penalty. (1) The driver of a vehicle commits the offense of failure to obey a traffic patrol member if:

(a) A traffic patrol member makes a cautionary sign or signal to indicate that students have entered or are about to enter the crosswalk under the traffic patrol member's direction; and

(b) The driver does not stop and remain stopped for students who are in or entering the crosswalk from either direction on the street on which the driver is operating.

(2) Traffic patrol members described in this section are those provided under ORS 339.650 to 339.665.

(3) The offense described in this section, failure to obey a traffic patrol member, is a Class A traffic violation. [1983 c.338 §545; 1995 c.383 §12; 2003 c.278 §2]

811.017 Failure to yield to traffic patrol member; penalty. (1) The driver of a vehicle commits the offense of failure to yield to a traffic patrol member if the driver fails to stop and yield the right of way to a traffic patrol member who:

(a) Has entered a crosswalk for the purpose of directing students who have entered or are about to enter the crosswalk; and

(b) Is carrying a flag or wearing something that identifies the person as a traffic patrol member.

(2) For purposes of this section, "traffic patrol" has the meaning given that term in ORS 339.650.

(3) The offense described in this section, failure to yield to a traffic patrol member, is a Class A traffic violation. [2003 c.557 §2]

811.020 Passing stopped vehicle at crosswalk; penalty. (1) The driver of a vehicle commits the offense of passing a stopped vehicle at a crosswalk if the driver:

(a) Approaches from the rear another vehicle that is stopped at a marked or an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway; and

(b) Overtakes and passes the stopped vehicle.

(2) The offense described in this section, passing a stopped vehicle at a crosswalk, is a Class B traffic violation. [1983 c.338 §546]

811.025 Failure to yield to pedestrian on sidewalk; penalty. (1) The driver of a vehicle commits the offense of failure to yield to a pedestrian on a sidewalk if the driver does not yield the right of way to any pedestrian on a sidewalk.

(2) The offense described in this section, failure to yield to a pedestrian on a sidewalk, is a Class B traffic violation. [1983 c.338 §547; 1995 c.383 §42]

811.028 Failure to stop and remain stopped for pedestrian; penalty. (1) The driver of a vehicle commits the offense of failure to stop and remain stopped for a pedestrian if the driver does not stop and remain stopped for a pedestrian when the pedestrian is:

(a) Proceeding in accordance with a traffic control device as provided under ORS 814.010 or crossing the roadway in a crosswalk; and

(b) In any of the following locations:

(A) In the lane in which the driver's vehicle is traveling;

(B) In a lane adjacent to the lane in which the driver's vehicle is traveling;

(C) In the lane into which the driver's vehicle is turning;

(D) In a lane adjacent to the lane into which the driver's vehicle is turning, if the driver is making a turn at an intersection that does not have a traffic control device under which a pedestrian may proceed as provided under ORS 814.010; or

(E) Less than six feet from the lane into which the driver's vehicle is turning, if the driver is making a turn at an intersection that has a traffic control device under which a pedestrian may proceed as provided under ORS 814.010.

(2) For the purpose of this section, a bicycle lane or the part of a roadway where a vehicle stops, stands or parks that is adjacent to a lane of travel is considered to be part of that adjacent lane of travel.

(3) This section does not require a driver to stop and remain stopped for a pedestrian under any of the following circumstances:

(a) Upon a roadway with a safety island, if the driver is proceeding along the half of the roadway on the far side of the safety island from the pedestrian; or

(b) Where a pedestrian tunnel or overhead crossing has been provided at or near a crosswalk.

(4) For the purposes of this section, a pedestrian is crossing the roadway in a

crosswalk when any part or extension of the pedestrian, including but not limited to any part of the pedestrian's body, wheelchair, cane, crutch or bicycle, moves onto the roadway in a crosswalk with the intent to proceed.

(5) The offense described in this section, failure to stop and remain stopped for a pedestrian, is a Class B traffic violation. [2005 c.746 §2; 2011 c.507 §1]

Note: 811.028 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.030 Driving through safety zone; penalty. (1) The driver of a vehicle commits the offense of driving through a safety zone if the driver at any time drives through or within any area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(2) The offense described in this section, driving through a safety zone, is a Class B traffic violation. [1983 c.338 §548; 1995 c.383 §43]

811.035 Failure to stop and remain stopped for pedestrian who has limited vision or is blind; penalty. (1) The driver of a vehicle commits the offense of failure to stop and remain stopped for a pedestrian who has limited vision or a pedestrian who is blind if the driver violates any of the following:

(a) A driver approaching a pedestrian who has limited vision or a pedestrian who is blind or deaf-blind, who is carrying a white cane or accompanied by a dog guide, and who is crossing or about to cross a roadway, shall stop and remain stopped until the pedestrian has crossed the roadway.

(b) Where the movement of vehicular traffic is regulated by traffic control devices, a driver approaching a pedestrian who has limited vision or a pedestrian who is blind or deaf-blind shall stop and remain stopped until the pedestrian has vacated the roadway if the pedestrian has entered the roadway and is carrying a white cane or is accompanied by a dog guide. This paragraph applies notwithstanding any other provisions of the vehicle code relating to traffic control devices.

(2) This section is subject to the provisions and definitions relating to the rights of pedestrians who have limited vision or pedestrians who are blind or deaf-blind under ORS 814.110.

(3) For the purposes of this section, a pedestrian is crossing the roadway when any part or extension of the pedestrian, including but not limited to any part of the pedestrian's body, wheelchair, cane, crutch, bicycle or leashed animal, moves onto the roadway with the intent to proceed.

(4) The offense described in this section, failure to stop and remain stopped for a pedestrian who has limited vision or a pedestrian who is blind, is a Class B traffic violation. [1983 c.338 §549; 1985 c.16 §280; 2003 c.278 §3; 2007 c.70 §329; 2011 c.507 §2; 2017 c.175 §3]

811.040 [1983 c.338 §550; 1985 c.16 §281; 2003 c.278 §4; repealed by 2005 c.746 §4]

811.045 [1983 c.338 §551; 2003 c.278 §5; repealed by 2005 c.746 §4]

811.050 Failure to yield to rider on bicycle lane; penalty. (1) A person commits the offense of failure of a motor vehicle operator to yield to a rider on a bicycle lane if the person is operating a motor vehicle and the person does not yield the right of way to a person operating a bicycle, electric assisted bicycle, electric personal assistive mobility device, moped, motor assisted scooter or motorized wheelchair upon a bicycle lane.

(2) This section does not require a person operating a moped to yield the right of way to a bicycle or a motor assisted scooter if the moped is operated on a bicycle lane in the manner permitted under ORS 811.440.

(3) The offense described in this section, failure of a motor vehicle operator to yield to a rider on a bicycle lane, is a Class B traffic violation. [1983 c.338 §698; 1985 c.16 §336; 1991 c.417 §4; 1997 c.400 §8; 2001 c.749 §23; 2003 c.341 §7]

811.055 Failure to yield to bicyclist on sidewalk; penalty. (1) The driver of a motor vehicle commits the offense of failure to yield the right of way to a bicyclist on a sidewalk if the driver does not yield the right of way to any bicyclist on a sidewalk.

(2) The driver of a motor vehicle is not in violation of this section when a bicyclist is operating in violation of ORS 814.410. Nothing in this subsection relieves the driver of a motor vehicle from the duty to exercise due care.

(3) The offense described in this section, failure to yield the right of way to a bicyclist on a sidewalk, is a Class B traffic violation. [1983 c.338 §702; 1985 c.16 §340; 1995 c.383 §44]

811.059 Milkman Mike Act. ORS 811.060 shall be known and may be cited as the Milkman Mike Act. [2017 c.388 §3]

Note: 811.059 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

811.060 Vehicular assault; penalty. (1) For the purposes of this section, "recklessly" has the meaning given that term in ORS 161.085.

(2) A person commits the offense of vehicular assault if:

(a) The person recklessly operates a vehicle upon a highway in a manner that results in contact between the person's vehicle and:

(A) A bicycle operated by a person;

(B) A person operating a bicycle;

(C) A motorcycle operated by a person;

(D) A person operating a motorcycle;

(E) A passenger on a motorcycle; or

(F) A pedestrian; and

(b) The contact causes physical injury to the person operating a bicycle, the person operating a motorcycle, the passenger on a motorcycle or the pedestrian.

(3) The offense described in this section, vehicular assault, is a Class A misdemeanor. [2001 c.635 §5; 2017 c.388 §1]

811.065 Unsafe passing of person operating bicycle; penalty. (1) A driver of a motor vehicle commits the offense of unsafe passing of a person operating a bicycle if the driver violates any of the following requirements:

(a) The driver of a motor vehicle may only pass a person operating a bicycle by driving to the left of the bicycle at a safe distance and returning to the lane of travel once the motor vehicle is safely clear of the overtaken bicycle. For the purposes of this paragraph, a "safe distance" means a distance that is sufficient to prevent contact with the person operating the bicycle if the person were to fall into the driver's lane of traffic. This paragraph does not apply to a driver operating a motor vehicle:

(A) In a lane that is separate from and adjacent to a designated bicycle lane;

(B) At a speed not greater than 35 miles per hour; or

(C) When the driver is passing a person operating a bicycle on the person's right side and the person operating the bicycle is turning left.

(b) The driver of a motor vehicle may drive to the left of the center of a roadway to pass a person operating a bicycle proceeding in the same direction only if the roadway to the left of the center is unobstructed for a sufficient distance to permit the driver to pass the person operating the bicycle safely and avoid interference with oncoming traffic. This paragraph does not authorize driving on the left side of the center of a roadway when prohibited under ORS 811.295, 811.300 or 811.310 to 811.325.

(c) The driver of a motor vehicle that passes a person operating a bicycle shall return to an authorized lane of traffic as soon as practicable.

(2) Passing a person operating a bicycle in a no passing zone in violation of ORS 811.420 constitutes prima facie evidence of commission of the offense described in this section, unsafe passing of a person operating a bicycle, if the passing results in injury to or the death of the person operating the bicycle.

(3) The offense described in this section, unsafe passing of a person operating a bicycle, is a Class B traffic violation. [2007 c.794 §2]

Note: 811.065 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

SPEED

(Basic Rule)

811.100 Violation of basic speed rule; penalty. (1) A person commits the offense of violating the basic speed rule if the person drives a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to all of the following:

(a) The traffic.

(b) The surface and width of the highway.

(c) The hazard at intersections.

(d) Weather.

(e) Visibility.

(f) Any other conditions then existing.

(2) The following apply to the offense described in this section:

(a) The offense is as applicable on an alley as on any other highway.

(b) Speeds that are prima facie evidence of violation of this section are established by ORS 811.105.

(c) This section and ORS 811.105 establish limitation on speeds that are in addition to speed limits established in ORS 811.111.

(3) Except as provided in subsection (4) of this section, violation of the basic speed rule by exceeding a designated speed posted under ORS 810.180 is punishable as provided in ORS 811.109.

(4) The offense described in this section, violating the basic speed rule, is a Class B traffic violation if the person drives a vehicle upon a highway at a speed that is not reasonable and prudent under the circumstances described in subsection (1) of this section even though the speed is lower than the appropriate speed specified in ORS 811.105 as prima facie evidence of violation of the basic speed rule. [1983 c.338 §563; 1987 c.887 §9; 1989 c.592 §4; 1991 c.728 §5; 1999 c.1051 §229; 2003 c.819 §5]

811.105 Speeds that are evidence of basic rule violation. (1) Any speed in excess of a designated speed posted by authority granted under ORS 810.180 is prima facie evidence of violation of the basic speed rule under ORS 811.100.

(2) If no designated speed is posted by authority granted under ORS 810.180, any speed in excess of one of the following speeds is prima facie evidence of violation of the basic speed rule:

(a) Fifteen miles per hour when driving on an alley or a narrow residential roadway.

(b) Twenty miles per hour in a business district.

(c) Twenty-five miles per hour in any public park.

(d) Twenty-five miles per hour on a highway in a residence district if:

(A) The residence district is not located within a city; and

(B) The highway is not an arterial highway.

(e) Fifty-five miles per hour in locations not otherwise described in this section. [1983 c.338 §564; 1985 c.16 §286; 1987 c.887 §10; 1989 c.592 §5; 1995 c.558 §3; 1997 c.404 §5; 1997 c.438 §3; 2003 c.397 §6; 2003 c.819 §6; 2007 c.367 §3; 2019 c.515 §3]

811.106 [1995 c.558 §2; 1997 c.682 §4; 2003 c.397 §7; 2003 c.819 §§7,7a,7b; renumbered 810.243 in 2011]

811.108 Relationship between speed limits and basic rule. (1) The speed limits established by ORS 811.111 do not authorize speeds higher than those required for compliance with the basic speed rule.

(2) The basic speed rule does not authorize speeds higher than those established as speed limits by ORS 811.111. [1987 c.887 §5; 2003 c.819 §8]

(Maximum Speeds)

811.109 Penalties for speed violations. (1) Violation of a specific speed limit imposed under law or of a posted speed limit is punishable as follows:

(a) One to 10 miles per hour in excess of the speed limit is a Class D traffic violation.

(b) 11 to 20 miles per hour in excess of the speed limit is a Class C traffic violation.

(c) 21 to 30 miles per hour in excess of the speed limit is a Class B traffic violation.

(d) Over 30 miles per hour in excess of the speed limit is a Class A traffic violation.

(2) Notwithstanding subsection (1) of this section, if the speed limit is 65 miles per hour or greater and:

(a) The person is exceeding the speed limit by 10 miles per hour or less, the offense is a Class C traffic violation.

(b) The person is exceeding the speed limit by more than 10 miles per hour but not more than 20 miles per hour, the offense is a Class B traffic violation.

(c) The person is exceeding the speed limit by more than 20 miles per hour, the offense is a Class A traffic violation.

(3) Violation of the basic speed rule by exceeding a designated speed posted under ORS 810.180 is punishable as follows:

(a) One to 10 miles per hour in excess of the designated speed is a Class D traffic violation.

(b) 11 to 20 miles per hour in excess of the designated speed is a Class C traffic violation.

(c) 21 to 30 miles per hour in excess of the designated speed is a Class B traffic violation.

(d) Over 30 miles per hour in excess of the designated speed is a Class A traffic violation.

(4) In addition to a fine imposed under subsection (1), (2) or (3) of this section, a court may order a suspension of driving privileges for up to 30 days if a person exceeds a speed limit or designated speed by more than 30 miles per hour and the person has received at least one prior conviction under ORS 811.100 or 811.111 within 12 months of the date of the current offense.

(5) Notwithstanding subsections (1) to (3) of this section, if a person drives 100 miles per hour or greater when the person commits a violation described in this section, the person commits a specific fine traffic violation. The presumptive fine for a violation under this subsection is $1,150, and upon conviction the court shall order a suspension of driving privileges for not less than 30 days nor more than 90 days.

(6) When a court orders a suspension under subsection (4) or (5) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280. [1995 c.383 §14; 2003 c.819 §17; 2005 c.491 §1; 2011 c.597 §§96,319]

811.110 [1983 c.338 §565; 1987 c.887 §11; 1991 c.185 §9; 1995 c.383 §15; 2001 c.176 §6; 2003 c.402 §36; repealed by 2003 c.819 §§19,20]

811.111 Violating a speed limit; penalty. (1) A person commits the offense of violating a speed limit if the person:

(a) Drives a vehicle on an interstate highway, except for the portions of interstate highway described in subsection (2) of this section, at a speed greater than 65 miles per hour or, if a different speed is posted under

ORS 810.180, at a speed greater than the posted speed.

(b) Notwithstanding paragraph (a) of this subsection, drives any of the following vehicles at a speed greater than 55 miles per hour on any highway, except for the portions of highway described in subsections (2) to (12) of this section, or, if a different speed is posted under ORS 810.180, at a speed greater than the posted speed:

(A) A motor truck with a gross vehicle weight rating of more than 10,000 pounds or a truck tractor with a gross vehicle weight rating of more than 8,000 pounds.

(B) A school bus.

(C) A school activity vehicle.

(D) A worker transport bus.

(E) A bus operated for transporting children to and from church or an activity or function authorized by a church.

(F) Any vehicle used in the transportation of persons for hire by a nonprofit entity.

(c) Drives a vehicle or conveyance on any part of the ocean shore in this state at a speed greater than any of the following:

(A) Any designated speed for ocean shores that is established and posted under ORS 810.180.

(B) If no designated speed is posted under ORS 810.180, 25 miles per hour.

(d) Except as otherwise provided in this section, drives a vehicle upon a highway at a speed greater than a speed posted by authority granted under ORS 810.180 or, if no designated speed is posted, the following:

(A) Fifteen miles per hour when driving on an alley or a narrow residential roadway.

(B) Twenty miles per hour in a business district.

(C) Twenty-five miles per hour in a public park.

(D) Twenty-five miles per hour on a highway in a residence district if the highway is not an arterial highway.

(E) Sixty-five miles per hour on an interstate highway.

(F) Fifty-five miles per hour in locations not otherwise described in this paragraph.

(e) Drives a vehicle in a school zone at a speed greater than 20 miles per hour if the school zone is:

(A) A segment of highway described in ORS 801.462 (1)(a) and:

(i) The school zone has a flashing light used as a traffic control device and operated as provided under ORS 810.243; or

(ii) If the school zone does not have a flashing light used as a traffic control device, the person drives in the school zone between 7 a.m. and 5 p.m. on a day when school is in session.

(B) A crosswalk described in ORS 801.462 (1)(b) and:

(i) A flashing light is used as a traffic control device and operated as provided under ORS 810.243; or

(ii) Children are present, as described in ORS 811.124.

(2) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of Interstate 84 beginning at the eastern city limit of The Dalles and ending at the Idaho state line at a speed greater than:

(a) Sixty-five miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Seventy miles per hour for all other vehicles.

(3) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 95 beginning at the Idaho state line and ending at the Nevada state line at a speed greater than:

(a) Sixty-five miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Seventy miles per hour for all other vehicles.

(4) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 20 beginning in Bend and ending in Ontario at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(5) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 197 beginning in The Dalles and ending at its intersection with State Highway 97 and the portion of State Highway 97 beginning at its intersection with State Highway 197 and ending at the California state line at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(6) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 31 beginning in Valley Falls and ending in La Pine at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(7) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 78 beginning in Burns Junction and ending in Burns at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(8) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 395 beginning in Burns and ending in John Day at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(9) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 395 beginning in Riley and ending at the California state line at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(10) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of Oregon Route 205 beginning in Burns and ending in Frenchglen at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(11) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 26 beginning in John Day and ending in Vale at a speed greater than:

(a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Sixty-five miles per hour for all other vehicles.

(12) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of Interstate 82 beginning at the Washington state line and ending at its intersection with Interstate 84 at a speed greater than:

(a) Sixty-five miles per hour for vehicles described in subsection (1)(b) of this section; or

(b) Seventy miles per hour for all other vehicles.

(13) The speed limits described in subsections (3) to (5) of this section do not apply to portions of highways inside of a city in this state.

(14) The offense described in this section, violating a speed limit, is punishable as provided in ORS 811.109. [2003 c.819 §4; 2003 c.819 §4a; 2005 c.573 §1; 2005 c.770 §6; 2007 c.367 §4; 2015 c. 139 §2; 2015 c.283 §5; 2015 c.746 §1; 2016 c.1 §1; 2019 c.515 §2]

811.112 [1987 c.887 §4; 1995 c.383 §16; repealed by 2003 c.819 §19]

811.115 [1983 c.338 §566; 1985 c.420 §8; 1987 c.887 §12; 1989 c.457 §1; 1989 c.992 §19; 1995 c.383 §17; 1999 c.359 §9; repealed by 2003 c.819 §19]

811.120 [1983 c.338 §567; 1987 c.887 §13; 1995 c.383 §18; repealed by 2003 c.819 §19]

811.122 [1989 c.592 §2; repealed by 1991 c.728 §6]

811.123 [1991 c.728 §2; 1995 c.383 §19; 1995 c.558 §4; 1997 c.404 §6; 1997 c.438 §4; 2003 c.397 §8; repealed by 2003 c.819 §§19,21]

811.124 Meaning of "children are present" in ORS 811.111. For purposes of ORS 811.111, children are present at any time and on any day when:

(1) Children are:

(a) Occupying or walking within a crosswalk described in ORS 801.462 (1)(b); or

(b) Waiting on the curb or shoulder of the highway at a crosswalk described in ORS 801.462 (1)(b); or

(2) A traffic patrol member provided under ORS 339.650 to 339.665 is present to assist children at a crosswalk described in ORS 801.462 (1)(b). [1997 c.438 §2; 2003 c.397 §5; 2003 c.819 §§9,9a,9b]

(Racing)

811.125 Speed racing on highway; penalty. (1) A person commits the offense of speed racing on a highway if, on a highway in this state, the person drives a vehicle or participates in any manner in any of the following in which a vehicle is involved:

(a) A speed competition or contest.

(b) An acceleration contest.

(c) A test of physical endurance.

(d) An exhibition of speed or acceleration.

(e) The making of a speed record.

(f) A race. For purposes of this paragraph, racing is the use of one or more vehicles in an attempt to outgain, outdistance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles or to test the physical stamina or endurance of drivers over long distance driving routes.

(g) A drag race. For purposes of this paragraph, drag racing is the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit.

(2) The offense described in this section, speed racing on a highway, is a Class A traffic violation and is applicable on any premises open to the public. [1983 c.338 §568; 1985 c.16 §287]

811.127 Organizing a speed racing event; penalty. (1) Except as provided in subsection (3) of this section, a person commits the offense of organizing a speed racing event if the person in any manner organizes a speed racing event.

(2) As used in this section, "speed racing event" means an event that:

(a) Is preplanned and coordinated and involves two or more vehicles;

(b) Includes any of the activities described in ORS 811.125 (1); and

(c) Takes place on a highway.

(3) A person who organizes a speed racing event is not in violation of this section if the person has a permit from the road authority for the highway on which the event takes place.

(4) The offense described in this section, organizing a speed racing event, is a Class C felony. [2003 c.550 §2]

(Impeding Traffic)

811.130 Impeding traffic; penalty. (1) A person commits the offense of impeding traffic if the person drives a motor vehicle or a combination of motor vehicles in a manner that impedes or blocks the normal and reasonable movement of traffic.

(2) A person is not in violation of the offense described under this section if the person is proceeding in a manner needed for safe operation.

(3) Proceeding in a manner needed for safe operation includes but is not necessarily limited to:

(a) Momentarily stopping to allow oncoming traffic to pass before making a right-hand or left-hand turn.

(b) Momentarily stopping in preparation of, or moving at an extremely slow pace while, negotiating an exit from the road.

(4) A person is not in violation of the offense described under this section if the person is proceeding as part of a funeral procession under the direction of a funeral escort vehicle or a funeral lead vehicle.

(5) The offense described in this section, impeding traffic, is a Class D traffic violation. [1983 c.338 §569; 1985 c.16 §288; 1989 c.433 §1; 1991 c.482 §18; 1995 c.383 §45]

CARELESS AND RECKLESS DRIVING

811.135 Careless driving; penalty. (1) A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.

(2) The offense described in this section, careless driving, applies on any premises open to the public and is a Class B traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic violation.

(3) In addition to any other penalty imposed for an offense committed under this section, if the court determines that the commission of the offense described in this section contributed to the serious physical injury or death of a vulnerable user of a public way, the court shall:

(a) Impose a sentence that requires the person to:

(A) Complete a traffic safety course; and

(B) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129. The community service must include activities related to driver improvement and providing public education on traffic safety;

(b) Order, but suspend on the condition that the person complete the requirements of paragraph (a) of this subsection:

(A) A fine of up to $12,500, notwithstanding ORS 153.018; and

(B) A suspension of driving privileges for one year as provided in ORS 809.280; and

(c) Set a hearing date up to one year from the date of sentencing.

(4) At the hearing described in subsection (3)(c) of this section, the court shall:

(a) If the person has successfully completed the requirements described in subsection (3)(a) of this section, dismiss the penalties ordered under subsection (3)(b) of this section; or

(b) If the person has not successfully completed the requirements described in subsection (3)(a) of this section:

(A) Grant the person an extension based on good cause shown; or

(B) Order the penalties under subsection (3)(b) of this section.

(5) When a court orders a suspension under subsection (4) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.

(6) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way. [1983 c.338 §570; 1995 c.383 §20; 2007 c.784 §3; 2011 c.355 §11; 2011 c.423 §1]

811.140 Reckless driving; penalty. (1) A person commits the offense of reckless driving if the person recklessly drives a vehicle upon a highway or other premises described in this section in a manner that endangers the safety of persons or property.

(2) The use of the term "recklessly" in this section is as defined in ORS 161.085.

(3) The offense described in this section, reckless driving, is a Class A misdemeanor and is applicable upon any premises open to the public. [1983 c.338 §571]

SPECIAL SAFETY MEASURES

811.145 Failure to yield to emergency vehicle or ambulance; penalty. (1) A person commits the offense of failure to yield to an emergency vehicle or ambulance if an ambulance or emergency vehicle that is using a visual or audible signal in a manner described under ORS 820.300 and 820.320 approaches the vehicle the person is operating and the person does not do all of the following:

(a) Yield the right of way to the ambulance or emergency vehicle.

(b) Immediately drive to a position as near as possible and parallel to the right-hand edge or curb of the roadway clear of any intersection.

(c) Stop and remain in such position until the emergency vehicle or ambulance has passed.

(2) A person is not in violation of this section if the person is acting as otherwise directed by a police officer.

(3) This section does not relieve the driver of an emergency vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor does this section protect the driver of any such vehicle from the consequence of an arbitrary exercise of the right of way granted under this section.

(4) The offense described in this section, failure to yield to an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §582; 1985 c.16 §289; 1995 c.383 §46]

811.147 Failure to maintain safe distance from motor vehicle; penalty. (1) A person operating a motor vehicle commits the offense of failure to maintain a safe distance from a motor vehicle if the person approaches a motor vehicle that is stopped and is displaying required warning lights or hazard lights, or a person is indicating distress by using emergency flares or posting emergency signs, and the person operating the motor vehicle:

(a) On a highway having two or more lanes for traffic in a single direction, fails to:

(A) Make a lane change to a lane not adjacent to that of the stopped motor vehicle; or

(B) Reduce the speed of the motor vehicle to a speed that is at least five miles per hour under the speed limit established in ORS 811.111 or a designated speed posted under ORS 810.180.

(b) On a two directional, two-lane highway, fails to reduce the speed of the motor vehicle to a speed that is at least five miles per hour under the speed limit established in ORS 811.111 or a designated speed posted under ORS 810.180.

(2) A person is not in violation of the offense described in this section if the stopped motor vehicle is in a designated parking area.

(3) The offense described in this section, failure to maintain a safe distance from a motor vehicle, is a Class B traffic violation. [2003 c.42 §2; 2009 c.198 §1; 2010 c.30 §17; 2017 c.305 §1]

Note: 811.147 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.150 Interference with emergency vehicle or ambulance; exemptions; penalty. (1) A person commits the offense of interference with an emergency vehicle or ambulance if the person does any of the following:

(a) Drives a vehicle following at a distance closer than 500 feet any emergency vehicle or ambulance that is traveling in response to a fire alarm or emergency.

(b) Drives or parks a vehicle in a manner that interferes with the emergency vehicle or ambulance responding to a fire alarm or emergency.

(c) Drives over an unprotected hose of a fire department laid down on any highway, private road or driveway to be used at any fire, alarm of fire or emergency.

(2) The following exemptions apply to this section:

(a) Nothing in this section prohibits a driver of an emergency vehicle or ambulance from following within 500 feet of an emergency vehicle or ambulance traveling in response to a fire alarm or emergency or from driving into or parking a vehicle in the area or vicinity where such vehicles have stopped in response to an alarm or emergency.

(b) Nothing in this section prevents any person from driving over an unprotected hose of a fire department if the person first obtains the permission of a fire department official or police officer at the scene of the fire, alarm of fire or emergency.

(3) The offense described in this section, interference with an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §584; 1985 c.16 §291; 1985 c.190 §1; 1995 c.383 §47]

811.155 Failure to stop for bus safety lights; exemptions; penalty. (1) A driver commits the offense of failure to stop for bus safety lights if the driver meets or overtakes from either direction any vehicle that is stopped on a roadway and that is operating red bus safety lights described under ORS 816.260 and the driver does not:

(a) Stop before reaching the vehicle; and

(b) Remain standing until the bus safety lights are no longer operating.

(2) The following apply to the offense described in this section:

(a) The offense described in this section does not apply if the vehicle operating the bus safety lights is not permitted under ORS 816.350 and 816.360 to operate red bus safety lights.

(b) A driver need not comply with this section if the vehicle operating red bus safety lights is stopped on a different roadway.

(3) The offense described in this section, failure to stop for bus safety lights, is a Class A traffic violation. [1983 c.338 §583; 1985 c.16 §290]

811.157 Report by driver of violation of ORS 811.155; contents. (1) The driver of a school bus, worker transport bus or a bus issued a permit under ORS 818.260 may report a violation of ORS 811.155 to the local law enforcement agency having jurisdiction over the area where the violation is alleged to have occurred.

(2) A report under subsection (1) of this section shall be made within 72 hours of the alleged violation and shall contain:

(a) The date and time of day of the alleged violation;

(b) The name of the street on which the bus was traveling at the time of the alleged violation and either the approximate address or the name of the closest intersecting street;

(c) The direction in which the bus was traveling and the direction in which the vehicle alleged to have committed the violation was traveling;

(d) The weather conditions, including visibility, at the time of the alleged violation; and

(e) The following information about the vehicle alleged to have committed the violation:

(A) Number and state of issuance of the registration plate; and

(B) Whether the vehicle is a sedan, station wagon, van, truck, bus, motorcycle or other type of vehicle.

(3) In addition to the information required by subsection (2) of this section, the report may contain any other identifying information, including but not limited to color of the vehicle, that the reporting bus driver has about the vehicle or the driver of the vehicle alleged to have committed the violation. [1987 c.654 §2]

811.159 Law enforcement agency response to report of violation of ORS 811.155. Upon receipt of a report containing the information required by ORS 811.157 (2), the law enforcement agency shall determine the name and address of the registered owner of the vehicle and shall send the registered owner a letter informing the owner that the vehicle was observed violating ORS 811.155. The letter shall include, at a minimum, information from the report filed under ORS 811.157 specifying the time and place of the alleged violation. [1987 c.654 §3]

811.160 Interference with rail fixed guideway public transportation system operation; penalty. (1) A person commits the offense of interference with rail fixed guideway public transportation system operation if the person does any of the following:

(a) Drives any vehicle in front of a rail fixed guideway public transportation system vehicle upon a track and the person fails to remove the person's vehicle from the track as soon as practicable after signal from the operator of the rail fixed guideway public transportation system vehicle.

(b) Drives a vehicle upon or across rail fixed guideway public transportation system tracks within an intersection in front of a rail fixed guideway public transportation system vehicle when the rail fixed guideway public transportation system vehicle has started to cross the intersection.

(c) Overtakes or passes upon the left any rail fixed guideway public transportation system vehicle proceeding in the same direction whether actually in motion or temporarily at rest. This paragraph does not apply on one-way streets or on streets where the tracks are so located as to prevent compliance.

(2) This section applies to any rail fixed guideway public transportation system vehicle that is any device traveling exclusively upon rails when upon or crossing a highway but does not apply to cars or trains propelled or moved by steam engine or by diesel engine.

(3) The offense described in this section, interference with rail fixed guideway public transportation system operation, is a Class B traffic violation. [1983 c.338 §585; 1995 c.383 §48; 2001 c.522 §3; 2017 c.46 §4]

811.165 Failure to stop for passenger loading of public transit vehicle; penalty. (1) A person commits the offense of failure to stop for passenger loading of a public transit vehicle if the person is the driver of a vehicle overtaking a public transit vehicle described in this section that is stopped or about to stop for the purpose of receiving or discharging any passenger and the person does not:

(a) Stop the overtaking vehicle to the rear of the nearest running board or door of the public transit vehicle; and

(b) Keep the vehicle stationary until all passengers have boarded or alighted therefrom and reached a place of safety.

(2) This section applies to the following public transit vehicles:

(a) Commercial buses; and

(b) Rail fixed guideway public transportation system vehicles.

(3) A person is not in violation of this section if the person passes a public transit vehicle:

(a) Upon the left of any public transit vehicle described in this section on a one-way street; or

(b) At a speed not greater than is reasonable and proper and with due caution for the safety of pedestrians when:

(A) The public transit vehicle has stopped at the curb; or

(B) Any area or space has been officially set apart within the roadway for the exclusive use of pedestrians and the area or space is so protected or marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(4) The offense described in this section, failure to stop for passenger loading of public transit vehicle, is a Class B traffic violation. [1983 c.338 §586; 1985 c.16 §292; 1995 c.383 §49; 2001 c.522 §4; 2017 c.46 §5]

811.167 Failure to yield right of way to transit bus; rules; penalty. (1) A person commits the offense of failure to yield the right of way to a transit bus entering traffic if the person does not yield the right of way to a transit bus when:

(a) A yield sign as described in subsection (2) of this section is displayed on the back of the transit bus;

(b) The person is operating a vehicle that is overtaking the transit bus from the rear of the transit bus; and

(c) The transit bus, after stopping to receive or discharge passengers, is signaling an intention to enter the traffic lane occupied by the person.

(2) The yield sign referred to in subsection (1)(a) of this section shall warn a person operating a motor vehicle approaching the rear of a transit bus that the person must yield when the transit bus is entering traffic. The yield sign shall be illuminated by a flashing light when the bus is signaling an intention to enter a traffic lane after stopping to receive or discharge passengers. The Oregon Transportation Commission shall adopt by rule the message on the yield sign, specifications for the size, shape, color, lettering and illumination of the sign and specifications for the placement of the sign on a transit bus.

(3) This section does not relieve a driver of a transit bus from the duty to drive with due regard for the safety of all persons using the roadway.

(4) As used in this section, "transit bus" means a commercial bus operated by a city or a county, a mass transit district established under ORS 267.010 to 267.394 or a transportation district established under ORS 267.510 to 267.650.

(5) The offense described in this section, failure to yield the right of way to a transit bus entering traffic, is a Class D traffic violation. [1997 c.509 §2; 2013 c.202 §1]

OPEN CONTAINER VIOLATIONS

811.170 Violation of open container law; penalty. (1) A person commits the offense of violation of the open container law in a motor vehicle if the person does any of the following:

(a) Drinks any alcoholic liquor in a motor vehicle when the vehicle is upon a highway.

(b) Possesses on one's person, while in a motor vehicle upon a highway, any bottle, can or other receptacle containing any alco-

holic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed.

(c) Keeps in a motor vehicle when the vehicle is upon any highway, any bottle, can or other receptacle containing any alcoholic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed. The following apply to this paragraph:

(A) This paragraph applies only to the registered owner of any motor vehicle or, if the registered owner is not then present in the vehicle, to the driver of the vehicle.

(B) This paragraph does not apply if the bottle, can or other receptacle is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk.

(C) For purposes of this paragraph, a utility compartment or glove compartment is considered within the area occupied by the driver and passengers.

(D) This paragraph does not apply to the living quarters of a camper or motor home.

(2) The offense described in this section does not apply to passengers in a motor vehicle operated by a common carrier and used primarily to carry passengers for hire.

(3) The offense described in this section, violation of the open container law in a motor vehicle, is a Class B traffic violation. [1983 c.338 §597; 1985 c.16 §303; 2001 c.827 §10]

DISPOSING OF HUMAN WASTE

811.172 Improperly disposing of human waste; penalty. (1) A person commits the offense of improperly disposing of human waste if the person is operating or riding in a motor vehicle and the person throws, puts or otherwise leaves a container of urine or other human waste on or beside the highway.

(2) The offense described in this section, improperly disposing of human waste, is a Class A misdemeanor. [1999 c.670 §2; 2011 c.597 §305]

DRIVING WHILE SUSPENDED OR REVOKED

811.175 Violation driving while suspended or revoked; penalties. (1) A person commits the offense of violation driving while suspended or revoked if the person does any of the following:

(a) Drives a motor vehicle upon a highway during a period when the person's driving privileges or right to apply for driving privileges have been suspended or revoked in this state by a court or by the Department of Transportation.

(b) Drives a motor vehicle outside the limitations of a hardship driver permit issued under ORS 807.240.

(c) Drives a commercial motor vehicle upon a highway during a period when the person's driving privileges or commercial driving privileges have been suspended or revoked in this state or any other jurisdiction.

(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section is applicable upon any premises open to the public.

(4) The offense described in this section, violation driving while suspended or revoked, is a Class A traffic violation except as otherwise provided in ORS 811.182. [1983 c.338 §598; 1985 c.16 §304; 1987 c.730 §1; 1987 c.801 §9; 1989 c.171 §91; 1989 c.636 §45; 1997 c.249 §228; 1999 c.1051 §90; 2009 c.395 §10; 2018 c.76 §12]

811.180 Affirmative defenses. The following establishes affirmative defenses in prosecutions for driving while suspended or revoked in violation of ORS 811.175 or 811.182 and describes when the affirmative defenses are not available:

(1) In addition to other defenses provided by law, including but not limited to ORS 161.200, it is an affirmative defense to the offenses described in ORS 811.175 and 811.182 that:

(a) An injury or immediate threat of injury to a human being or animal, and the urgency of the circumstances made it necessary for the defendant to drive a motor vehicle at the time and place in question; or

(b) The defendant had not received notice of the defendant's suspension or revocation or been informed of the suspension or revocation by a trial judge who ordered a suspension or revocation of the defendant's driving privileges or right to apply.

(2) The affirmative defenses described in subsection (1)(b) of this section are not available to a defendant under the circumstances described in this subsection. Any of the evidence specified in this subsection may be offered in the prosecution's case in chief. This subsection applies if any of the following circumstances exist:

(a) The defendant refused to accept a notification provided by the department, including refusing to sign a receipt for the certified mail containing the notice of suspension or revocation.

(b) The notice of suspension or revocation could not be delivered to the defendant because the defendant failed to comply with the requirements under ORS 807.560 to no-

tify the Department of Transportation of a change of address or residence.

(c) At a previous court appearance, the defendant had been informed by a trial judge that the judge was ordering a suspension or revocation of the defendant's driving privileges or right to apply.

(d) The defendant had actual knowledge of the suspension or revocation by any means prior to the time the defendant was stopped on the current charge.

(e) The defendant was provided with notice of intent to suspend under ORS 813.100. [1983 c.338 §599; 1985 c.16 §305; 1985 c.672 §18; 1985 c.744 §1; 1987 c.138 §2; 1987 c.158 §168; 1987 c.730 §20; 1987 c.801 §10; 1997 c.249 §229; 2019 c.312 §25]

811.182 Criminal driving while suspended or revoked; penalties. (1) A person commits the offense of criminal driving while suspended or revoked if the person violates ORS 811.175 and the suspension or revocation is one described in this section, or if the hardship permit violated is based upon a suspension or revocation described in subsection (3) or (4) of this section.

(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section, criminal driving while suspended or revoked, is a Class B felony if the suspension or revocation resulted from any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated driving while suspended or revoked or if the revocation resulted from a conviction for felony driving while under the influence of intoxicants.

(4) The offense described in this section, criminal driving while suspended or revoked, is a Class A misdemeanor if the suspension or revocation is any of the following:

(a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree of recklessly endangering another person, menacing or criminal mischief, resulting from the operation of a motor vehicle.

(b) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(c) A suspension of commercial driving privileges under ORS 809.510 resulting from failure to perform the duties of a driver under ORS 811.700.

(d) A suspension of commercial driving privileges under ORS 809.510 (6) where the person's commercial driving privileges have been suspended or revoked by the other jurisdiction for failure of or refusal to take a chemical test to determine the alcoholic content of the person's blood under a statute that is substantially similar to ORS 813.100.

(e) A suspension of commercial driving privileges under ORS 809.520.

(f) A revocation resulting from habitual offender status under ORS 809.640.

(g) A suspension resulting from any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle, other than a crime described in subsection (3) of this section.

(h) A suspension for failure to perform the duties of a driver under ORS 811.705.

(i) A suspension for reckless driving under ORS 811.140.

(j) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

(k) A suspension or revocation resulting from misdemeanor driving while under the influence of intoxicants under ORS 813.010.

(L) A suspension for use of a motor vehicle in the commission of a crime punishable as a felony.

(5) In addition to any other sentence that may be imposed, if a person is convicted of the offense described in this section and the underlying suspension resulted from driving while under the influence of intoxicants, the court shall impose a minimum fine of at least $1,000 if it is the person's first conviction for criminal driving while suspended or revoked and a minimum fine of at least $2,000 if it is the person's second or subsequent conviction.

(6)(a) The Oregon Criminal Justice Commission shall classify a violation of this section that is a felony as crime category 4 of the rules of the commission.

(b) Notwithstanding paragraph (a) of this subsection, the commission shall classify a violation of this section that is a felony as crime category 6 of the rules of the commission, if the suspension or revocation resulted from:

(A) Any degree of murder, manslaughter or criminally negligent homicide or an assault that causes serious physical injury, resulting from the operation of a motor vehicle; or

(B) Aggravated vehicular homicide or aggravated driving while suspended or revoked. [1987 c.730 §§3,3a; 1989 c.636 §46; 1991 c.185 §10; 1991 c.860 §9; 1993 c.305 §2; 1995 c.568 §2; 1997 c.249 §230; 1999 c.1049 §7; 2001 c.436 §1; 2001 c.786 §2; 2003 c.346 §3; 2003 c.402 §37; 2005 c.649 §19; 2007 c.867 §13; 2009 c.783 §14; 2011 c.597 §97; 2013 c.237 §26; 2013 c.649 §3; 2018 c.76 §13]

811.185 [1983 c.338 §600; 1985 c.16 §306; repealed by 1991 c.208 §1]

DRIVER OFFENSES INVOLVING PASSENGERS

811.190 Operation with obstructing passenger; penalty. (1) A person commits the offense of driver operation with obstructing passenger if the person is operating a vehicle when another person is in the operator's lap or in the operator's embrace.

(2) The offense described in this section, driver operation with obstructing passenger, is a Class D traffic violation. [1983 c.338 §601; 1995 c.383 §50]

811.193 Smoking, aerosolizing or vaporizing in motor vehicle when child is present; penalty. (1)(a) A person commits the offense of smoking, aerosolizing or vaporizing in a motor vehicle if the person smokes or uses an inhalant delivery system in a motor vehicle while a person under 18 years of age is in the motor vehicle.

(b) As used in this subsection:

(A) "Smokes" means to inhale, exhale, burn or carry a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance; and

(B) "Uses an inhalant delivery system" means to use an inhalant delivery system, as defined in ORS 431A.175, in a manner that creates an aerosol or vapor.

(2) Notwithstanding ORS 810.410, a police officer may enforce this section only if the police officer has already stopped and detained the driver operating the motor vehicle for a separate traffic violation or other offense.

(3) Smoking, aerosolizing or vaporizing in a motor vehicle is a:

(a) Class D traffic violation for a first offense.

(b) Class C traffic violation for a second or subsequent offense. [2013 c.361 §2; 2015 c.158 §12]

Note: 811.193 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.195 Having passenger in trailer; penalty. (1) A person commits the offense of having a passenger in a trailer if the person operates a vehicle on a highway while towing any type of trailer that contains a passenger.

(2) This section does not apply if the person is operating any of the following vehicles:

(a) A commercial bus trailer.

(b) An independently steered trailer.

(c) A trailer towed with a fifth wheel hitch if the trailer is equipped with all of the following:

(A) Safety glazing materials that meet the standards established under ORS 815.040 wherever there are windows or doors with windows on the vehicle.

(B) An auditory or visual signaling device that a passenger inside the vehicle can use to gain the attention of the motor vehicle driver towing the vehicle.

(C) At least one unobstructed exit capable of being opened from both the interior and exterior of the vehicle.

(3) The offense described in this section, passenger in trailer, is a Class D traffic violation. [1983 c.338 §602; 1985 c.16 §307; 1995 c.383 §51; 2003 c.158 §7]

811.200 Carrying dog on external part of vehicle; penalty. (1) A person commits the offense of carrying a dog on the external part of a vehicle if the person carries a dog upon the hood, fender, running board or other external part of any automobile or truck that is upon a highway unless the dog is protected by framework, carrier or other device sufficient to keep it from falling from the vehicle.

(2) The offense described in this section, carrying dog on external part of vehicle, is a Class D traffic violation. [1983 c.338 §603; 1995 c.383 §52]

811.205 Carrying minor on external part of vehicle; penalty. (1) A person commits the offense of carrying a minor on an external part of a motor vehicle if the person carries any person under 18 years of age upon the hood, fender, running board or other external part of any motor vehicle that is upon a highway.

(2) For purposes of this section, the open bed of a motor vehicle is an external part of a motor vehicle.

(3) A person does not commit the offense described in this section if the person:

(a) Is carrying a minor in the open bed of a motor vehicle and the minor is secured with a safety belt or safety harness that complies with rules adopted under ORS 815.055;

(b) Is operating the motor vehicle in an organized parade; or

(c) Is carrying a minor who is seated on the floor of the open bed of a motor vehicle in which all available passenger seats are

occupied by minors, the tailgate is securely closed and the minor is being transported:

(A) In the course and scope of employment, provided that the minor is transported in compliance with law and rules regulating the transport of workers; or

(B)(i) Between a hunting camp and a hunting site or between hunting sites during hunting season; and

(ii) The minor has a hunting license.

(4) The offense described in this section, carrying a minor on an external part of a motor vehicle, is a Class B traffic violation. [1983 c.338 §604; 1995 c.383 §53; 2003 c.107 §1]

811.207 Legislative findings regarding restraint of children in motor vehicles. The Legislative Assembly finds that:

(1) Oregon drivers look to the law in deciding how to restrain and protect children in motor vehicles.

(2) The proper restraint of children in motor vehicles will reduce the number of children killed in motor vehicle accidents and reduce the severity of injuries to children who survive motor vehicle accidents. [2007 c.601 §1]

Note: 811.207 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

811.210 Failure to properly use safety belts; penalty. (1)(a) Except as provided in ORS 811.215, a person commits the offense of failure to properly use safety belts if the person:

(A) Operates a motor vehicle on the highways of this state and is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(B) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class I, Class II or Class IV all-terrain vehicle that is not registered under ORS 803.420, is not properly secured with a safety belt or safety harness.

(C) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class II all-terrain vehicle registered under ORS 803.420, is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(D) Operates a motor vehicle on the highways of this state with a passenger who is under 16 years of age and the passenger is not properly secured with a child safety system, safety belt or safety harness as required by subsection (2) of this section.

(E) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class I, Class II or Class IV all-terrain vehicle that is not registered under ORS 803.420, is not properly secured with a safety belt or safety harness.

(F) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class II all-terrain vehicle registered under ORS 803.420, is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(G) Is a passenger in a privately owned commercial vehicle, as defined in ORS 801.210, that is designed and used for the transportation of 15 or fewer persons, including the driver, and the person is 16 years of age or older and is responsible for another passenger who is not properly secured with a child safety system as required under subsection (2)(a), (b) or (c) of this section.

(H) Is a passenger in a motor vehicle being operated on the highways of this state who is 16 years of age or older and who is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(b) As used in this subsection, "public lands" includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560.

(2) To comply with this section:

(a) A person who is under two years of age must be properly secured with a child safety system in a rear-facing position.

(b) A person who weighs 40 pounds or less must be properly secured with a child safety system that meets the minimum standards and specifications established by the Department of Transportation under ORS 815.055 for child safety systems designed for children weighing 40 pounds or less.

(c) Except as provided in subsection (3) of this section, a person who weighs more than 40 pounds and who is four feet nine inches or shorter must be properly secured with a child safety system that elevates the person so that a safety belt or safety harness properly fits the person. As used in this paragraph, "properly fits" means the lap belt of the safety belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck. The child safety system shall

meet the minimum standards and specifications established by the department under ORS 815.055 for child safety systems designed for children who are four feet nine inches or shorter.

(d) A person who is taller than four feet nine inches must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055.

(e) Notwithstanding paragraphs (b) and (c) of this subsection, a person who is eight years of age or older need not be secured with a child safety system but must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055.

(3) The requirements of subsection (2)(c) of this section do not apply:

(a) If the rear seat of a vehicle is not equipped with shoulder belts, provided the person is secured by a lap belt; or

(b) If the child is properly secured with a child safety system that meets the minimum standards and specifications established by the department under ORS 815.055 for child safety systems designed for children weighing more than 40 pounds.

(4) The offense described in this section, failure to properly use safety belts, is a Class D traffic violation. [1985 c.16 §309; 1985 c.619 §1; 1991 c.2 §1; 1993 c.153 §1; 1993 c.751 §112; 2001 c.679 §1; 2003 c.159 §1; 2005 c.244 §2; 2007 c.601 §2; 2009 c.498 §1; 2010 c.30 §10; 2011 c.300 §1; 2011 c.360 §17; 2017 c.177 §1]

811.215 Exemptions from safety belt requirements. ORS 811.210 does not apply to:

(1) Privately owned commercial vehicles that are being used for the transportation of persons for compensation or profit. The exemption in this subsection does not apply to any of the following:

(a) Motor carriers, as defined in ORS 825.005, when operating in interstate commerce.

(b) Vehicles designed and used for the transportation of 15 or fewer persons, including the driver, except that the operator of a vehicle described in this paragraph is not required to:

(A) Be properly secured with a safety belt or safety harness as required by ORS 811.210 if the operator is a taxicab operator; or

(B) Ensure that a passenger is properly secured with a child safety system as described in ORS 811.210 (2)(a), (b) or (c).

(2) Any vehicle not required to be equipped with safety belts or safety harnesses at the time the vehicle was manufactured, unless safety belts or safety harnesses have been installed in the vehicle.

(3) Any vehicle exempted by ORS 815.080 from requirements to be equipped upon sale with safety belts or safety harnesses.

(4) Any person for whom a certificate is issued by the Department of Transportation under ORS 811.220.

(5) Any person who is a passenger in a vehicle if all seating positions in the vehicle are occupied by other persons.

(6) Any person who is being transported while in the custody of a police officer or any law enforcement agency.

(7) Any person who is driving a vehicle while on a newspaper or mail route for the purpose of and while actually engaged in delivering newspapers or mail in the regular course of work.

(8) Any person who is riding in an ambulance for the purpose of administering medical aid to another person in the ambulance, if being secured by a safety belt or safety harness would substantially inhibit the administration of medical aid.

(9) Any person who is reading utility meters in the regular course of work.

(10) Any person who is employed to operate a vehicle owned by a mass transit district while the vehicle is being used for the transportation of passengers in the public transportation system of the district.

(11) Any person who is collecting solid waste or recyclable materials in the regular course of work.

(12) Any person who is employed to operate a vehicle owned by a tribal government public transportation system while the vehicle is being used for the transportation of passengers in the public transportation system of the tribal government. [1985 c.619 §3; 1987 c.138 §3; 1991 c.2 §2; 1997 c.509 §3; 1999 c.1057 §4; 2003 c.589 §5; 2005 c.244 §1; 2005 c.770 §8; 2007 c.200 §1; 2007 c.601 §3; 2018 c.93 §37; 2019 c.398 §1]

811.220 Certificates of exemption from safety belt requirement. The Director of Transportation shall issue a certificate of exemption required under ORS 811.215 for any person on whose behalf a statement signed by a physician, nurse practitioner or physician assistant is presented to the Department of Transportation. For a physician's, nurse practitioner's or physician assistant's statement to qualify under this section, the physician, nurse practitioner or physician assistant giving the statement must set forth reasons in the statement why use of a child safety system, safety belt or safety harness by the person would be impractical or harmful to the person by reason of physical condition, medical problem or body size. [1985 c.16 §310; 1985 c.619 §4; 1991 c.2 §3; 1995 c.79 §372; 2001 c.104 §306; 2015 c.109 §1]

811.225 Failure to maintain safety belts in working order; penalty. (1) The registered owner of a motor vehicle commits the offense of failure of an owner to maintain safety belts in working order if:

(a) The vehicle is equipped with safety belts or safety harnesses that meet the standards established under ORS 815.055; and

(b) The owner fails to maintain the safety belts or safety harnesses in a condition that will enable occupants of all seating positions equipped with safety belts or safety harnesses to use the belts or harnesses.

(2) The offense described in this section, failure of an owner to maintain safety belts in working order, is a Class C traffic violation. [1991 c.2 §5; 1995 c.383 §118; 2003 c.158 §10]

HIGHWAY WORK ZONES

811.230 Definitions; fine; notice. (1) As used in ORS 811.230, 811.231, 811.232 and 811.233:

(a) "Flagger" means a person who controls the movement of vehicular traffic through construction projects using sign, hand or flag signals.

(b) "Highway work zone" means an area identified by advance warning where road construction, repair or maintenance work is being done by highway workers on or adjacent to a highway, regardless of whether or not highway workers are actually present. As used in this paragraph, "road construction, repair or maintenance work" includes, but is not limited to, the setting up and dismantling of advance warning systems.

(c) "Highway worker" means an employee of a government agency, private contractor or utility company working in a highway work zone.

(2)(a) The presumptive fine for a person convicted of an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a highway work zone is the presumptive fine for the offense established under ORS 153.020.

(b) The minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a highway work zone is 20 percent of the maximum fine established for the offense.

(c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a highway work zone is two percent of the maximum fine established for the offense.

(3) This section applies to the following offenses if committed in a highway work zone:

(a) Class A or Class B traffic violations.

(b) Class C or Class D traffic violations related to exceeding a legal speed.

(c) Reckless driving, as defined in ORS 811.140.

(d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(e) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(4) When a highway work zone is created, the agency, contractor or company responsible for the work may post signs designed to give motorists notice of the provisions of this section. [1995 c.253 §2; 1997 c.843 §3; 1999 c.1051 §292; 2011 c.597 §114; 2018 c.22 §9]

811.231 Reckless endangerment of highway workers; penalties. (1) A person commits the offense of reckless endangerment of highway workers if the person drives a motor vehicle in a highway work zone in such a manner as to endanger persons or property or if the person removes, evades or intentionally strikes a traffic control device in a highway work zone.

(2) Reckless endangerment of highway workers is a Class A misdemeanor. In addition to any other penalty, a person convicted of reckless endangerment of highway workers is subject to suspension of driving privileges as provided in ORS 809.411 (6). [1995 c.253 §3; 1997 c.83 §4; 2001 c.176 §7; 2003 c.402 §38]

811.232 Refusing to obey flagger; penalty. (1) A person commits the offense of refusing to obey a flagger if the person intentionally and unreasonably disobeys a lawful order by a flagger relating to driving a motor vehicle in a highway work zone.

(2) Refusing to obey a flagger is a Class A traffic violation. [1995 c.253 §4]

811.233 Failure to yield right of way to highway worker; penalty. (1) A person commits the offense of failure to yield the right of way to a highway worker who is a pedestrian if the person is operating a motor vehicle in a highway work zone and does not yield the right of way to a highway worker who is a pedestrian.

(2) The provisions of ORS 814.040 and 814.070 regarding pedestrians do not apply to pedestrians described in subsection (1) of this section.

(3) The offense described in this section, failure to yield the right of way to a highway worker who is a pedestrian, is a Class B traffic violation. [1997 c.843 §2]

SCHOOL ZONE PENALTIES

811.235 Fine for traffic offenses in school zones. (1)(a) If signs authorized by ORS 810.245 are posted, the presumptive fine for a person charged with an offense that is listed in subsection (2)(a) or (b) of this section and that is committed in a school zone shall be the amount established under ORS 153.020 for the offense.

(b) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a school zone is 20 percent of the maximum fine established for the offense.

(c) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of a felony offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a school zone is two percent of the maximum fine established for the offense.

(2) This section applies to the following offenses if committed in a school zone:

(a) Class A or Class B traffic violations.

(b) Class C or Class D traffic violations related to exceeding a legal speed.

(c) Reckless driving, as defined in ORS 811.140.

(d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(e) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(3) For purposes of this section, a traffic offense occurs in a school zone if the offense occurs while the motor vehicle is in a school zone, notice of the school zone is indicated plainly by traffic control devices conforming to the requirements established under ORS 810.200 and posted under authority granted by ORS 810.210 and:

(a) Children are present as described in ORS 811.124; or

(b) A flashing light is used as a traffic control device and operated as provided under ORS 810.243. [1997 c.682 §3; 1999 c.1051 §293; 2003 c.397 §9; 2011 c.597 §115; 2015 c.139 §3; 2018 c.22 §10]

GENERAL DRIVING RULES

(Generally)

811.250 Law applicable to vehicles registered out of state. Any out-of-state registered vehicle is subject to all laws, rules and regulations governing the operation of such vehicles on the highways of this state. [1983 c.338 §606; 1985 c.401 §15]

811.255 Permitting unlawful operation of vehicle; penalty. (1) A person who is an owner, lessor or lessee of a motor vehicle or who employs or otherwise directs the driver of a motor vehicle, commits the offense of permitting the unlawful operation of a vehicle if the person knowingly permits or requires the operation of the vehicle in violation of any of the following:

(a) The rules of the road.

(b) The laws governing equipment of motor vehicles.

(c) The laws governing weight of motor vehicles.

(d) The laws governing operator driving privileges.

(e) The laws governing registration or titling of vehicles.

(2) The offense described in this section, permitting unlawful operation of a vehicle, is a Class B traffic violation. [1983 c.338 §607]

(Traffic Control Devices)

811.260 Appropriate driver responses to traffic control devices. Except as provided in ORS 811.265 (2), a driver is in violation of ORS 811.265 if the driver makes a response to traffic control devices that is not permitted under the following:

(1) Green signal. A driver facing a green light may proceed straight through or turn right or left unless a sign at that place prohibits either turn. A driver shall yield the right of way to other vehicles within the intersection at the time the green light is shown.

(2) Green arrow. A driver facing a green arrow signal light, shown alone or in combination with another signal, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other signals shown at the same time.

(3) Green bicycle signal. A bicyclist facing a green bicycle signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. The bicyclist shall yield the right of way to other vehicles within the intersection at the time the green bicycle signal is shown.

(4) Steady circular yellow signal. A driver facing a steady circular yellow signal light is thereby warned that the related right of way is being terminated and that a red or flashing red light will be shown immediately. A driver facing the light shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk

on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.

(5) Steady yellow arrow signal. A driver facing a steady yellow arrow signal, alone or in combination with other signal indications, is thereby warned that the related right of way is being terminated. Unless entering the intersection to make a movement permitted by another signal, a driver facing a steady yellow arrow signal shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.

(6) Steady yellow bicycle signal. A bicyclist facing a steady yellow bicycle signal is thereby warned that the related right of way is being terminated and that a red bicycle signal will be shown immediately. A bicyclist facing a steady yellow bicycle signal shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a bicyclist cannot stop in safety, the bicyclist may proceed cautiously through the intersection.

(7) Steady circular red signal. A driver facing a steady circular red signal light alone shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The driver shall remain stopped until a green light is shown except when the driver is permitted to proceed under ORS 811.360.

(8) Steady red arrow signal. A driver facing a steady red arrow signal, alone or in combination with other signal indications, may not enter the intersection to make the movement indicated by the red arrow signal. Unless entering the intersection to make some other movement which is permitted by another signal, a driver facing a steady red arrow signal shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The vehicle shall remain stopped until a green light is shown except when the driver is permitted to proceed under ORS 811.360.

(9) Steady red bicycle signal. A bicyclist facing a steady red bicycle signal shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The bicyclist shall remain stopped until a green bicycle signal is shown except when the bicyclist is permitted to proceed under ORS 811.360.

(10) Traffic control devices at places other than intersections. If a traffic control device that is a signal is erected and maintained at a place other than an intersection, the provisions of this section relating to signals shall be applicable. A required stop shall be made at a sign or marking on the roadway indicating where the stop shall be made, but in the absence of such sign or marking the stop shall be made at the signal.

(11) Flashing red signal. When a driver approaches a flashing red light used in a traffic control device or with a traffic sign, the driver shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. The right to proceed shall be subject to the rules applicable after making a stop at a stop sign. This subsection does not apply to:

(a) A person operating a bicycle; or

(b) Drivers at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing is governed by ORS 811.455.

(12) Flashing circular yellow signal. When a driver approaches a flashing circular yellow light used as a signal in a traffic control device or with a traffic sign, the driver may proceed through the intersection or past the signal only with caution. This subsection does not apply at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing is governed by ORS 811.455.

(13) Flashing yellow arrow signal. A driver facing a flashing yellow arrow signal, alone or in combination with other signal indications, may cautiously enter the intersection only to make the movement indicated by the flashing yellow arrow signal or the movement permitted by other signals shown at the same time. A driver shall yield the right of way to other vehicles within the intersection at the time the flashing yellow arrow signal is shown. In addition, a driver turning left shall yield the right of way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when the turning vehicle is moving across or within the intersection.

(14) Lane direction control signals. When lane direction control signals are placed over the individual lanes of a highway, a person may drive a vehicle in any lane over which a green signal light is shown, but may not enter or travel in any lane over which a red signal light is shown.

(15) Stop signs. A driver approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection or, if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching so close as to constitute an immediate hazard during the time when the driver is moving across or within the intersection. This subsection does not apply to a person operating a bicycle.

(16) Yield signs. A driver approaching a yield sign shall slow the driver's vehicle to a speed reasonable for the existing conditions and if necessary for safety, shall stop at a line as required for stop signs under this section, and shall yield the right of way to any vehicles in the intersection or approaching so closely as to constitute an immediate hazard. [1983 c.338 §609; 1989 c.539 §1; 1997 c.507 §6; 2003 c.278 §6; 2011 c.168 §1; 2015 c.147 §2; 2019 c.683 §4]

811.265 Driver failure to obey traffic control device; penalty. (1) A person commits the offense of driver failure to obey a traffic control device if the person drives a vehicle and the person does any of the following:

(a) Fails to obey the directions of any traffic control device.

(b) Fails to obey any specific traffic control device described in ORS 811.260 in the manner required by that section.

(2) A person is not subject to this section if the person is doing any of the following:

(a) Following the directions of a police officer.

(b) Driving an emergency vehicle or ambulance in accordance with the privileges granted those vehicles under ORS 820.300.

(c) Properly proceeding on a red light as authorized under ORS 811.360.

(d) Driving in a funeral procession led by a funeral lead vehicle or under the direction of the driver of a funeral escort vehicle.

(e) Properly entering an intersection or executing a turn at a stop sign as authorized under ORS 814.414.

(f) Properly entering an intersection or executing a turn at a flashing red signal as authorized under ORS 814.416.

(3) The offense described in this section, driver failure to obey a traffic control device, is a Class B traffic violation. [1983 c.338 §608; 1991 c.482 §13; 2015 c.147 §3; 2019 c.683 §5]

811.270 Failure to obey one-way designation; penalty. (1) A person commits the offense of failure to obey a one-way designation if the person is operating a vehicle and the person proceeds upon a roadway designated for one-way traffic in a direction other than that indicated by a traffic control device.

(2) The offense described in this section, failure to obey a one-way designation, is a Class B traffic violation. [1983 c.338 §610]

(Right of Way)

811.275 Failure to yield right of way at uncontrolled intersection; penalty. (1) A person commits the offense of failure to yield the right of way at an uncontrolled intersection if the person is operating a motor vehicle that is approaching an uncontrolled highway intersection and the person does not look out for and give right of way to any driver on the right simultaneously approaching a given point, regardless of which driver first reaches and enters the intersection.

(2) This section is subject to the described provisions of the following sections:

(a) The provisions of ORS 811.260, relating to stop signs and yield signs.

(b) The provisions of ORS 811.285, relating to the requirements to yield the right of way upon entering a freeway or other arterial highway.

(c) The provisions of ORS 811.277, relating to the right of way at an uncontrolled T intersection.

(3) A person entering an intersection at an unlawful speed shall forfeit any right of way the person would otherwise have under subsection (1) of this section.

(4) The offense described in this section, failure to yield right of way at an uncontrolled intersection, is a Class B traffic violation. [1983 c.338 §611; 1985 c.16 §311; 1987 c.138 §4; 2003 c.183 §3]

811.277 Failure to yield right of way at uncontrolled T intersection; penalty. (1) A person commits the offense of failure to yield the right of way at an uncontrolled T intersection if the person is operating a motor vehicle on a highway that ends at an uncontrolled T intersection and the person does not yield the right of way to any driver who is on the highway at the top of the T intersection.

(2) As used in this section and ORS 811.275:

(a) "T intersection" means an intersection at which one highway is perpendicular to another and at which one of the highways ends.

(b) "Top of the T intersection" means the highway that does not end at the junction of two highways.

(3) The offense described in this section, failure to yield the right of way at an uncontrolled T intersection, is a Class B traffic violation. [2003 c.183 §2]

811.280 Failure of driver entering roadway to yield right of way; penalty. (1) A person commits the offense of failure of a driver entering a roadway to yield the right of way if the person:

(a) Is operating a vehicle that is about to enter or cross a roadway from any private road, driveway, alley or place other than another roadway; and

(b) Does not yield the right of way to any vehicle approaching on the roadway to be entered or crossed so closely as to constitute an immediate hazard.

(2) This section does not apply where the movement of traffic is otherwise directed by a traffic control device or a driver of a funeral escort vehicle.

(3) The offense described in this section, failure of driver entering roadway to yield right of way, is a Class B traffic violation. [1983 c.338 §612; 1991 c.482 §14; 1995 c.383 §54]

811.285 Failure of merging driver to yield right of way; penalty. (1) A person commits the offense of failure of a merging driver to yield the right of way if the person is operating a vehicle that is entering a freeway or other arterial highway where an acceleration or merging lane is provided for the operator's use and the operator does not look out for and give right of way to vehicles on the freeway or other arterial highway.

(2) The offense described in this section, failure of a merging driver to yield the right of way, is a Class B traffic violation. [1983 c.338 §613; 1995 c.383 §55]

811.290 Obstructing cross traffic; penalty. (1) A person commits the offense of obstructing cross traffic if the person is operating a vehicle and the person enters an intersection or a marked crosswalk when there is not sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians.

(2) The offense described in this section applies whether or not a traffic control device indicates to proceed.

(3) The offense described in this section, obstructing cross traffic, is a Class D traffic violation. [1983 c.338 §614; 1995 c.383 §56]

811.292 Failure to yield right of way within roundabout; exception; penalty. (1) A person commits the offense of failure to yield right of way within a roundabout if the person operates a motor vehicle upon a multilane circulatory roadway and:

(a) Overtakes or passes a commercial motor vehicle;

(b) Drives alongside a commercial motor vehicle; or

(c) Does not yield the right of way to a second vehicle lawfully exiting the roundabout from a position ahead and to the left of the person's vehicle.

(2) This section does not apply if a traffic control device indicates that the operator of a motor vehicle should take other action.

(3) The offense described in this section, failure to yield right of way within a roundabout, is a Class C traffic violation. [2001 c.464 §5; 2011 c.85 §1]

Note: 811.292 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

(Driving on the Right)

811.295 Failure to drive on right; exceptions; penalty. (1) A person commits the offense of failure to drive on the right if the person is operating a vehicle on a roadway of sufficient width and the person does not drive on the right half of the roadway.

(2) A person is not required to drive on the right side of the roadway by this section under any of the following circumstances:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement in ORS 811.410 to 811.425 or 811.808.

(b) When preparing to turn left in an intersection, alley or private road or driveway.

(c) When an obstruction or condition exists making it necessary to drive to the left of the center of the roadway, provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance as to constitute an immediate hazard.

(d) Upon a roadway divided into three marked lanes for traffic under the rules applicable on the roadway under ORS 811.380.

(e) Upon a roadway restricted to one-way traffic.

(3) The offense described in this section, failure to drive on the right, is a Class B traffic violation. [1983 c.338 §615; 1991 c.482 §15]

811.300 Failure to drive on right of approaching vehicle; exceptions; penalty. (1) A person commits the offense of failure to drive on the right of an approaching vehicle if the person is operating a vehicle upon a roadway having width for not more than one lane of traffic in each direction and the person does not:

(a) Pass to the right of any other vehicle proceeding on the roadway in the opposite direction; and

(b) Give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

(2) This section does not apply to a person operating a vehicle as otherwise directed by a traffic control device.

(3) The offense described in this section, failure to drive on the right of an approaching vehicle, is a Class B traffic violation. [1983 c.338 §616]

811.305 Driving on left on curve or grade or at intersection or rail crossing; exceptions; penalty. (1) A person commits the offense of driving on the left on a curve or grade or at an intersection or rail crossing if the person is operating a vehicle upon any two-way roadway where traffic is permitted to move in both directions simultaneously and the person drives on the left side of the center of the roadway:

(a) Upon any part of a grade or upon a curve in the roadway where the driver's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When approaching an intersection or railroad grade crossing where the driver's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction; or

(c) At any intersection or railroad grade crossing.

(2) This section does not prohibit a person from driving on the left side of the center of a roadway under the following circumstances:

(a) When the right half of the roadway is obstructed or closed to traffic while under construction or repair; or

(b) When a driver makes a lawful left turn.

(3) The offense described in this section, driving on the left on a curve or grade or at an intersection or rail crossing, is a Class B traffic violation. [1983 c.338 §617]

811.310 Crossing center line on two-way, four-lane road; exceptions; penalty. (1) A person commits the offense of crossing the center line on a two-way, four-lane road if the person is operating a vehicle on a two-way roadway that has four or more lanes for moving traffic and the person drives to the left of the center line of the roadway.

(2) A person is not prohibited from driving to the left of the center line of a roadway by this section under the following circumstances:

(a) When authorized by a traffic control device designating certain lanes to the left side of the center of the roadway for use by traffic.

(b) When an obstruction or condition exists making it necessary to drive to the left of the center of the roadway, provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance as to constitute an immediate hazard.

(c) When making a left turn at an intersection, alley or private road or driveway.

(3) The offense described in this section, crossing the center line on a two-way, four-lane road, is a Class B traffic violation. [1983 c.338 §618]

811.315 Failure of slow driver to drive on right; exceptions; penalty. (1) A person commits the offense of failure of a slow driver to drive on the right if the person is operating a vehicle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing and the person fails to drive:

(a) In the right-hand lane available for traffic; or

(b) As close as practicable to the right-hand curb or edge of the roadway.

(2) This section does not apply under any of the following circumstances:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing passing in ORS 811.410 to 811.425.

(b) When preparing to turn left at an intersection, alley or private road or driveway.

(3) The offense described in this section, failure of slow driver to drive on the right, is a Class B traffic violation. [1983 c.338 §619; 1995 c.383 §57]

811.320 Failure to drive to right on divided highway; exceptions; penalty. (1) A person commits the offense of failure to drive to the right on a divided highway if the person is operating a vehicle upon a highway divided into two or more roadways by means of an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic

and the person does not drive only upon the right-hand roadway.

(2) This section does not apply if a person is operating a vehicle in accordance with traffic control devices or the directions of a police officer that differ from the requirements of this section.

(3) The offense described in this section, failure to drive to the right on a divided highway, is a Class B traffic violation. [1983 c.338 §620]

811.325 Failure to keep camper, trailer or truck in right lane; exceptions; penalty. (1) A person commits the offense of failure to keep a camper, trailer or truck in the right lane if the person is operating any of the vehicles described in this subsection and the person does not drive in the right lane of all roadways having two or more lanes for traffic proceeding in a single direction. This subsection applies to all of the following vehicles:

(a) Any camper.

(b) Any vehicle with a trailer.

(c) Any vehicle with a registration weight of 10,000 pounds or more.

(2) This section does not require the described vehicles to be driven in the right lane under any of the following circumstances:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement in ORS 811.410 to 811.425 when such movement can be made without interfering with the passage of other vehicles.

(b) When preparing to turn left.

(c) When reasonably necessary in response to emergency conditions.

(d) To avoid actual or potential traffic moving onto the right lane from an acceleration or merging lane.

(e) When necessary to follow traffic control devices that direct use of a lane other than the right lane.

(3) The offense described in this section, failure to keep camper, trailer or truck in the right lane, is a Class B traffic violation. [1983 c.338 §621; 1989 c.723 §18; 1995 c.383 §58; 2005 c.770 §7]

811.330 Driving wrong way around traffic island; penalty. (1) A person commits the offense of driving the wrong way around a traffic island if the person is operating a vehicle and the person drives the vehicle around a rotary traffic island in any direction except to the right of the island.

(2) The offense described in this section, driving the wrong way around a traffic island, is a Class B traffic violation. [1983 c.338 §622]

(Turning)

811.335 Unlawful or unsignaled turn; penalty. (1) A person commits the offense of making an unlawful or unsignaled turn if the person is operating a vehicle upon a highway and the person turns the vehicle right or left when:

(a) The movement cannot be made with reasonable safety; or

(b) The person fails to give an appropriate signal continuously during not less than the last 100 feet traveled by the vehicle before turning.

(2) Appropriate signals for use while turning are as designated under ORS 811.395 and 811.400.

(3) The offense described in this section, making an unlawful or unsignaled turn, is a Class D traffic violation. [1983 c.338 §623; 1995 c.383 §59]

811.340 Improperly executed left turn; penalty. (1) A person commits the offense of making an improperly executed left turn if the person operates a vehicle and is intending to turn the vehicle to the left and the person does not:

(a) Approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the turning vehicle;

(b) Make the left turn to the left of the center of the intersection whenever practicable; and

(c) Except as otherwise allowed by ORS 811.346, leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(2) The offense described in this section, improperly executing a left turn, is a Class B traffic violation. [1983 c.338 §624; 1985 c.16 §312; 1995 c.383 §60; 1997 c.468 §3]

811.345 Failure to use special left turn lane; penalty. (1) A person commits the offense of failure to use a special left turn lane if the person is operating a vehicle where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by traffic control devices and the person turns the vehicle left from any other lane.

(2) The offense described in this section, failure to use special left turn lane, is a Class B traffic violation. [1983 c.338 §625; 1995 c.383 §61]

811.346 Misuse of special left turn lane; penalty. (1) A person commits the offense of misuse of a special left turn lane if the person uses a special left turn lane for anything other than making a left turn either into or from the special left turn lane.

(2) A person who turns into a special left turn lane from an alley, driveway or other entrance to the highway that has the special left turn lane is in violation of this section if the person does anything other than stop in the lane and merge into traffic in the lane immediately to the right of the person's vehicle.

(3) As used in ORS 811.345 and this section, a "special left turn lane" is a median lane that is marked for left turns by drivers proceeding in opposite directions.

(4) The offense described in this section, misuse of a special left turn lane, is a Class B traffic violation. [1997 c.468 §2]

811.350 Dangerous left turn; penalty. (1) A person commits the offense of making a dangerous left turn if the person:

(a) Is operating a vehicle;

(b) Intends to turn the vehicle to the left within an intersection or into an alley, private road, driveway or place from a highway; and

(c) Does not yield the right of way to a vehicle approaching from the opposite direction that is within the intersection or so close as to constitute an immediate hazard.

(2) The offense described in this section, dangerous left turn, is a Class B traffic violation. [1983 c.338 §626; 1985 c.16 §313]

811.355 Improperly executed right turn; penalty. (1) A person commits the offense of making an improperly executed right turn if the person is operating a vehicle, is intending to turn the vehicle to the right and does not proceed as close as practicable to the right-hand curb or edge of the roadway:

(a) In making the approach for a right turn; and

(b) In making the right turn.

(2) The offense described in this section, improperly executed right turn, is a Class B traffic violation. [1983 c.338 §627; 1995 c.383 §62]

811.360 Vehicle turns permitted at stop light; proceeding against traffic control device; improperly proceeding at stop light; penalty. (1) The driver of a vehicle, subject to this section, who is intending to turn at an intersection where there is a traffic control device showing a steady circular red signal, a steady red bicycle signal or a steady red arrow signal may do any of the following without violating ORS 811.260 and 811.265:

(a) Make a right turn into a two-way street.

(b) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.

(2) In addition to the provisions of subsection (1) of this section, a bicyclist or motorcyclist does not violate ORS 811.260 and 811.265 if:

(a) The bicyclist or motorcyclist approaches an intersection where there is a traffic control device showing a steady circular red signal, a steady red bicycle signal or a steady red arrow signal;

(b) The traffic control device is controlled by a vehicle detection device;

(c) The bicyclist or motorcyclist comes to a complete stop and waits for the traffic control device to complete one full cycle; and

(d) After the vehicle detection device fails to detect the presence of the bicycle or motorcycle and change the traffic control device to a green signal, the bicyclist or motorcyclist proceeds with caution through the intersection.

(3) A person commits the offense of improperly proceeding at a stop light if the person does any of the following while proceeding as described in this section:

(a) Fails to stop at the light as required.

(b) Fails to exercise caution to avoid an accident.

(c) Disobeys the directions of another traffic control device, other than the device described in subsections (1) and (2) of this section, or a police officer that prohibits the driver, motorcyclist or bicyclist from proceeding.

(d) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close to the intersection as to constitute an immediate hazard.

(4) A driver, motorcyclist or bicyclist who is proceeding as described in this section is also subject to the requirements under ORS 811.028 to stop for a pedestrian before proceeding.

(5) The offense described in this section, improperly proceeding at a stop light, is a Class B traffic violation. [1983 c.338 §628; 1997 c.507 §7; 2003 c.278 §7; 2005 c.746 §3; 2011 c.168 §2; 2015 c.147 §1]

811.365 Illegal U-turn; penalty. (1) A person commits the offense of making an illegal U-turn if the person is operating a vehicle and the person turns the vehicle so as to proceed in the opposite direction in any of the following places:

(a) Within an intersection where traffic is controlled by an electrical signal. This

paragraph does not apply where posted otherwise.

(b) Upon a highway within the limits of an incorporated city between intersections.

(c) At any place upon a highway where the vehicle cannot be seen by another driver approaching from either direction within a distance of:

(A) 500 feet within the incorporated limits of a city; or

(B) 1,000 feet outside a city.

(2) The offense described in this section, illegal U-turn, is a Class C traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class B traffic violation. [1983 c.338 §629; 1995 c.383 §63]

(Lane Use)

811.370 Failure to drive within lane; exception; penalty. (1) Except as provided in subsection (2) of this section, a person commits the offense of failure to drive within a lane if the person is operating a vehicle upon a roadway that is divided into two or more clearly marked lanes for traffic and the driver does not:

(a) Operate the vehicle as nearly as practicable entirely within a single lane; and

(b) Refrain from moving from that lane until the driver has first made certain that the movement can be made with safety.

(2) A person who operates a commercial motor vehicle within a multilane roundabout that is divided into two or more clearly marked lanes for traffic may operate the commercial motor vehicle in more than one lane when it is not practicable to remain entirely within one lane.

(3) The offense described in this section, failure to drive within a lane, is a Class B traffic violation. [1983 c.338 §630; 2011 c.85 §2]

811.375 Unlawful or unsignaled change of lane; penalty. (1) A person commits the offense of unlawful or unsignaled change of lanes if the person is operating a vehicle upon a highway and the person changes lanes by moving to the right or left upon the highway when:

(a) The movement cannot be made with reasonable safety; or

(b) The driver fails to give an appropriate signal continuously during not less than the last 100 feet traveled by the vehicle before changing lanes.

(2) Appropriate signals for use while changing lanes are as designated under ORS 811.395 and 811.400.

(3) The offense described in this section, unlawful or unsignaled change of lane, is a Class D traffic violation. [1983 c.338 §631; 1995 c.383 §64]

811.380 Improper use of center lane on three-lane road; penalty. (1) A person commits the offense of improper use of the center lane on a three-lane road if the person is operating a vehicle upon a roadway divided into three clearly marked lanes for traffic with two-way movement of traffic permitted on the roadway and the person operates the vehicle in the center lane under any circumstances other than as permitted under the following:

(a) The driver may drive in the center lane when the center lane is allocated exclusively to traffic moving in the same direction that the driver is proceeding by a traffic control device directing the lane allocation.

(b) The driver may drive in the center lane when the driver is overtaking and passing a vehicle proceeding in the same direction and the center lane is clear of traffic within a safe distance.

(c) The driver may drive in the center lane when making a left turn.

(2) The offense described in this section, improper use of center lane on three-lane road, is a Class B traffic violation. [1983 c.338 §632]

811.385 Depriving motorcycle or moped of full lane; penalty. (1) A person commits the offense of depriving a motorcycle or moped of a full lane if the person operates a motor vehicle upon a roadway laned for traffic in a manner that prevents a moped operator or motorcyclist from full use of a lane.

(2) This section does not apply to operators of motorcycles or mopeds whose use of lanes is controlled by ORS 814.240 and 814.250.

(3) The offense described in this section, depriving a motorcycle or moped of a full lane, is a Class B traffic violation. [1983 c.338 §685]

(Signaling)

811.390 Unlawful use of lights to signal for passing; penalty. (1) A person commits the offense of unlawful use of lights to signal for passing if the person is operating a vehicle and the person flashes any lights as a courtesy or "do pass" signal to other drivers approaching from the rear.

(2) The offense described in this section, unlawful use of lights to signal for passing, is a Class D traffic violation. [1983 c.338 §633; 1995 c.383 §65]

811.395 Appropriate signals for stopping, turning, changing lanes and decelerating. This section establishes appropriate signals, for purposes of the vehicle code, for use when signals are required while stopping, turning, changing lanes or suddenly decelerating a vehicle. This section does not authorize the use of only hand and arm signals when the use of signal lights is required under ORS 811.405. Vehicle lighting equipment described in this section is vehicle lighting equipment for which standards are established under ORS 816.100 and 816.120. Appropriate signals are as follows:

(1) To indicate a left turn either of the following:

(a) Hand and arm extended horizontally from the left side of the vehicle.

(b) Activation of front and rear turn signal lights on the left side of the vehicle.

(2) To indicate a right turn either of the following:

(a) Hand and arm extended upward from the left side of the vehicle. A person who is operating a bicycle is not in violation of this paragraph if the person signals a right turn by extending the person's right hand and arm horizontally.

(b) Activation of front and rear turn signal lights on the right side of the vehicle.

(3) To indicate a stop or a decrease in speed either of the following:

(a) Hand and arm extended downward from the left side of the vehicle; or

(b) Activation of brake lights on the vehicle.

(4) Change of lane by activation of both front and rear turn signal lights on the side of the vehicle toward which the change of lane is made. [1983 c.338 §635; 1985 c.16 §314]

811.400 Failure to use appropriate signal for turn, lane change, stop or exit from roundabout; penalty. (1) A person commits the offense of failure to use an appropriate signal for a turn, lane change or stop or for an exit from a roundabout if the person does not make the appropriate signal under ORS 811.395 by use of signal lamps or hand signals and the person is operating a vehicle that is:

(a) Turning, changing lanes, stopping or suddenly decelerating; or

(b) Exiting from any position within a roundabout.

(2) This section does not authorize the use of only hand signals to signal a turn, change of lane, stop or deceleration when the use of signal lights is required under ORS 811.405.

(3) The offense described in this section, failure to use appropriate signal for a turn, lane change or stop or for an exit from a roundabout, is a Class B traffic violation. [1983 c.338 §634; 1995 c.383 §66; 2001 c.464 §6]

811.405 Failure to signal with lights; exceptions; penalty. (1) A person commits the offense of failure to signal with lights when required if a person is operating a vehicle and does not use the vehicle lighting equipment described under ORS 811.395 to signal when turning, changing lanes, stopping or suddenly decelerating under any of the following circumstances:

(a) During limited visibility conditions.

(b) At any time the person is operating a vehicle or combination of vehicles in which the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of the vehicle is greater than 24 inches.

(c) At any time the person is operating a vehicle or combination of vehicles in which the distance from the center of the top of the steering post to the rear limit of the body or load is greater than 14 feet.

(2) This section does not require the driver of a moped or bicycle that is not equipped with lighting equipment to use lighting equipment when required by this section. A driver of such moped or bicycle shall signal by means of appropriate hand and arm signals described under ORS 811.395 without violation of this section.

(3) The offense described in this section, failure to signal with lights when required, is a Class D traffic violation. [1983 c.338 §636; 1985 c.16 §315; 1995 c.383 §67]

(Passing)

811.410 Unsafe passing on left; penalty. (1) A person commits the offense of unsafe passing on the left if the person violates any of the following requirements concerning the overtaking and passing of vehicles:

(a) The driver of a vehicle that is overtaking any other vehicle proceeding in the same direction shall pass to the left of the other vehicle at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted under ORS 811.415, the driver of an overtaken vehicle shall give way to the right in favor of an overtaking vehicle and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle.

(c) The driver of a vehicle shall not drive to the left side of the center of the roadway

in overtaking and passing a vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the operation of a vehicle approaching from the opposite direction or a vehicle overtaken.

(d) An overtaking vehicle shall return to an authorized lane of traffic as soon as practicable.

(2) This section does not authorize driving on the left side of the center of the road when prohibited under the following:

(a) Limitations on driving on the left of the center of a roadway under ORS 811.305.

(b) Passing in a no passing zone under ORS 811.420.

(c) ORS 811.295, 811.300 and 811.310 to 811.325 that require driving on the right.

(3) The offense described in this section, unsafe passing on the left, is a Class B traffic violation. [1983 c.338 §637; 1987 c.158 §168a]

811.415 Unsafe passing on right; penalty. (1) A person commits the offense of unsafe passing on the right if the person:

(a) Drives a vehicle to overtake and pass upon the right of another vehicle at any time not permitted under this section.

(b) Drives a vehicle to overtake and pass upon the right of another vehicle at any time by driving off the paved portion of the highway.

(2) For purposes of this section, a person may drive a vehicle to overtake and pass upon the right of another vehicle under any of the following circumstances:

(a) Overtaking and passing upon the right is permitted if:

(A) The overtaken vehicle is making or the driver has signaled an intention to make a left turn;

(B) The paved portion of the highway is of sufficient width to allow two or more lanes of vehicles to proceed lawfully in the same direction as the overtaking vehicle; and

(C) The roadway ahead of the overtaking vehicle is unobstructed for a sufficient distance to permit passage by the overtaking vehicle to be made in safety.

(b) Overtaking and passing upon the right is permitted if the overtaken vehicle is proceeding along a roadway in the left lane of two or more clearly marked lanes allocated exclusively to vehicular traffic moving in the same direction as the overtaking driver.

(c) Overtaking and passing upon the right is permitted if the overtaking vehicle is a bicycle that may safely make the passage under the existing conditions.

(3) The offense described in this section, unsafe passing on the right, is a Class B traffic violation. [1983 c.338 §638; 1987 c.158 §169; 2005 c.316 §1]

811.420 Passing in no passing zone; exceptions; penalty. (1) A person commits the offense of passing in a no passing zone if the person drives a vehicle on the left side of a roadway in a no passing zone that has been established and designated to prohibit such movements by appropriate signs or markings posted on the roadway.

(2) The authority to establish and post no passing zones for purposes of this section is established under ORS 810.120.

(3) The provisions of this section do not apply under any of the following circumstances:

(a) When a driver turns left into or from an alley, intersection, private road or driveway.

(b) When an obstruction or condition exists making it necessary to drive to the left of the center of the roadway provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance that would constitute an immediate hazard.

(4) The offense described in this section, passing in a no passing zone, is a Class B traffic violation. [1983 c.338 §639; 1985 c.16 §316]

811.425 Failure of slower driver to yield to overtaking vehicle; penalty. (1) A person commits the offense of failure of a slower driver to yield to overtaking vehicle if the person is driving a vehicle and the person fails to move the person's vehicle off the main traveled portion of the highway into an area sufficient for safe turnout when:

(a) The driver of the overtaken vehicle is proceeding at a speed less than a speed established in ORS 811.105 as prima facie evidence of violation of the basic speed rule;

(b) The driver of the overtaking vehicle is proceeding at a speed in conformity with ORS 811.105;

(c) The highway is a two directional, two-lane highway; and

(d) There is no clear lane for passing available to the driver of the overtaking vehicle.

(2) This section does not apply to the driver of a vehicle in a funeral procession.

(3) The offense described in this section, failure of a slower driver to yield to over-

taking vehicle, is a Class B traffic violation. [1983 c.338 §640; 1991 c.482 §16; 1995 c.383 §68; 2001 c.104 §307; 2003 c.819 §15]

(Prohibited Places)

811.430 Driving on highway divider; exceptions; penalty. (1) A person commits the offense of driving on a highway divider if the person drives a vehicle over, across or within a dividing space, barrier or section that is an intervening space, physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic and that divides a highway into two or more roadways.

(2) For purposes of this section, a "dividing space" includes pavement markings of solid double yellow lines with yellow crosshatching between the double yellow lines.

(3) This section does not apply when the movement of a vehicle that is otherwise prohibited by this section is made:

(a) At an authorized crossover or intersection; or

(b) At the specific direction of a road authority.

(4) The offense described in this section, driving on a highway divider, is a Class B traffic violation. [1983 c.338 §642; 2011 c.330 §25]

811.435 Operation of motor vehicle on bicycle trail; exemptions; penalty. (1) A person commits the offense of operation of a motor vehicle on a bicycle trail if the person operates a motor vehicle upon a bicycle lane or a bicycle path.

(2) Exemptions to this section are provided under ORS 811.440.

(3) This section is not applicable to mopeds. ORS 811.440 and 814.210 control the operation and use of mopeds on bicycle lanes and paths.

(4) The offense described in this section, operation of a motor vehicle on a bicycle trail, is a Class B traffic violation. [1983 c.338 §643]

811.440 When motor vehicles may operate on bicycle lane. This section provides exemptions from the prohibitions under ORS 811.435 and 814.210 against operating motor vehicles on bicycle lanes and paths. The following vehicles are not subject to ORS 811.435 and 814.210 under the circumstances described:

(1) A person may operate a moped on a bicycle lane that is immediately adjacent to the roadway only while the moped is being exclusively powered by human power.

(2) A person may operate a motor vehicle upon a bicycle lane when:

(a) Making a turn;

(b) Entering or leaving an alley, private road or driveway; or

(c) Required in the course of official duty.

(3) An implement of husbandry may momentarily cross into a bicycle lane to permit other vehicles to overtake and pass the implement of husbandry.

(4) A person may operate a motorized wheelchair on a bicycle lane or path.

(5) A person may operate a motor assisted scooter on a bicycle lane or path.

(6) A person may operate an electric personal assistive mobility device on a bicycle lane or path. [1983 c.338 §645; 1991 c.417 §1; 2001 c.749 §24; 2003 c.341 §8]

811.445 Use of throughway when prohibited; penalty. (1) A person commits the offense of use of a throughway when prohibited if any use restrictions or prohibitions are posted by appropriate signs giving notice thereof and the person violates any restriction or prohibition so posted.

(2) The authority to impose restrictions and prohibitions for purposes of this section is granted under ORS 810.020.

(3) The offense described in this section, use of throughway when prohibited, is a Class D traffic violation. [1983 c.338 §646; 1995 c.383 §69]

811.450 Violation of posted truck routes; defense; penalty. (1) A person commits the offense of violation of posted truck routes if appropriate signs designating truck routes are posted and the person does not operate a vehicle in compliance with the posted requirements.

(2) Authority to establish and change truck routes for purposes of this section is established in ORS 810.040.

(3) It is a defense to a charge of violation of this section if the person so charged can establish that the person could not reach the person's destination without traveling upon the street, road or highway prohibited under the posted requirements.

(4) The offense described in this section, violation of posted truck routes, is a Class B traffic violation. [1983 c.338 §647; 1985 c.393 §39; 1995 c.383 §70]

(Rail Crossings)

811.455 Failure to stop for railroad signal; penalty. (1) A person commits the offense of failure to stop for a railroad signal if the person fails to comply with any of the following requirements:

(a) A person who is driving a vehicle must stop the vehicle at a clearly marked stop line on the near side of a railroad

crossing or, if there is no clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the crossing under any of the following circumstances:

(A) When a clearly visible electric or mechanical signal is given by a device that warns of the immediate approach of a railroad train or other on-track equipment.

(B) Upon the lowering of a crossing gate.

(C) When a signal given by a flagger or police officer indicates the approach or passage of a railroad train or other on-track equipment.

(D) When an approaching train or other on-track equipment is clearly visible and because of its nearness to the crossing is an immediate hazard.

(E) When an audible signal is given by an approaching railroad train or other on-track equipment because its speed or nearness to the crossing is an immediate hazard.

(b) A driver who has stopped for the passing of a train or other on-track equipment at a railroad grade crossing in accordance with the provisions of this section may not proceed across the railroad tracks until the driver can do so safely.

(c) A person may not drive any vehicle through, around or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(2) The offense described in this section, failure to stop for a railroad signal, is a Class B traffic violation. [1983 c.338 §648; 1985 c.16 §317; 1995 c.383 §71; 1997 c.249 §232; 2001 c.492 §3; 2017 c.176 §1]

811.460 Failure to follow rail crossing procedures for high-risk vehicles; application; penalty. (1) A person commits the offense of failure to follow rail crossing procedures for high-risk vehicles if the person takes any vehicle described in this section across any railroad or rail fixed guideway public transportation system tracks at grade without doing all of the following:

(a) Stopping the vehicle at a clearly marked stop line or, if there is not a clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the railroad or rail fixed guideway public transportation system.

(b) While so stopped, listening and looking in both directions along the tracks for approaching trains, other on-track equipment or rail fixed guideway public transportation system vehicles and for signals indicating approaching trains, other on-track equipment or rail fixed guideway public transportation system vehicles.

(c) Proceeding across the tracks after stopping only when such movement can be performed safely in the gear of the motor vehicle that does not require manually changing gears while proceeding.

(d) Proceeding across the tracks without manually changing gears.

(2) This section applies to the following vehicles when moved across railroad or rail fixed guideway public transportation system tracks:

(a) A school bus.

(b) A school activity vehicle with a loaded weight of 10,000 pounds or more.

(c) A worker transport bus.

(d) Any bus operated for transporting children to and from church or an activity or function authorized by a church.

(e) Any vehicle used in the transportation of persons for hire by a nonprofit entity.

(f) A commercial bus.

(g) A motor vehicle carrying as a cargo or part of a cargo any explosive substance, inflammable liquids, corrosives or similar substances or any cargo that the Department of Transportation determines to be hazardous. For purposes of this paragraph, the department may only determine a substance to be hazardous by rule. Any rules adopted by the department to determine hazardous substances must be consistent with substances classified as hazardous by the United States Secretary of Transportation.

(h) A tank vehicle, whether loaded or empty, used for the transportation of any hazardous material.

(3) Exemptions to this section are provided under ORS 811.465.

(4) The offense described in this section, failure to follow rail crossing procedures for high-risk vehicles, is a Class B traffic violation. [1983 c.338 §649; 1985 c.16 §318; 1985 c.420 §9; 1989 c.992 §20; 1995 c.383 §72; 1995 c.733 §49; 2001 c.104 §308; 2001 c.492 §4; 2001 c.522 §5; 2015 c.283 §6; 2017 c.46 §6; 2017 c.176 §2]

811.462 Failure of operator of commercial motor vehicle to slow down and check tracks; penalty. (1) A person commits the offense of failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train or other on-track equipment if the person:

(a) Is operating a commercial motor vehicle that is not required by ORS 811.460 to stop before reaching a rail crossing;

(b) Is approaching a rail crossing at grade; and

(c) Fails to slow down and check that the tracks are clear of an approaching train or

other on-track equipment before proceeding across the railroad tracks.

(2) The offense described in this section, failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train or other on-track equipment, is a Class B traffic violation. [2001 c.492 §7; 2017 c.176 §3]

811.465 Exemptions from high-risk vehicle rail crossing procedures. This section establishes exemptions from the special crossing procedures established for high-risk vehicles under ORS 811.460. The exemptions are partial or complete as described in the following:

(1) The vehicles are not required to comply with the procedures at a crossing of a street or highway and rail fixed guideway public transportation system tracks if:

(a) The rail fixed guideway public transportation system vehicles operate within and parallel to the right of way of a street or highway; and

(b) All vehicle movements are controlled by traffic control devices.

(2) The vehicles are not required to comply with the procedures when crossing any railway tracks upon which operation has been abandoned and for which the Department of Transportation has plainly marked that no stop need be made.

(3) The vehicles are not required to comply with the procedures when crossing industry track crossings across which train operations are required by law to be conducted under flag protection.

(4) The vehicles are not required to comply with the procedures when crossing industry track crossings within business districts.

(5) Vehicles are not required to comply with the procedures when crossing any crossing where an officer directs traffic to proceed or where an operating traffic control signal indicates that other traffic may proceed.

(6) Vehicles are not required to comply with the procedures when crossing any crossing protected by crossing gates. The exemption under this subsection does not apply to:

(a) School buses or school activity vehicles that are required to stop at crossings with crossing gates under ORS 811.460;

(b) Tank vehicles, whether loaded or empty, used to transport hazardous materials;

(c) Vehicles transporting any hazardous material requiring the vehicle to be placarded; or

(d) High-risk vehicles described in ORS 811.460 that are not otherwise described in this subsection, when operating in interstate commerce.

(7) Except when a train, other on-track equipment or rail fixed guideway public transportation system vehicle is approaching, the driver of a commercial bus is not required to stop at crossings where the Department of Transportation has determined and plainly marked that no stop need be made. [1983 c.338 §650; 1985 c.420 §10; 2001 c.522 §6; 2003 c.589 §6; 2009 c.551 §2; 2017 c.46 §7; 2017 c.176 §4]

811.470 Improper movement of heavy equipment across rail crossing; application; penalty. (1) A person commits the offense of improper movement of heavy equipment across a rail crossing if the person operates or moves any equipment described in this section upon or across any tracks at a railroad or rail fixed guideway public transportation system grade crossing without complying with any of the following:

(a) Before moving across the tracks, the person must give notice of an intended crossing to a responsible officer of the railroad or rail fixed guideway public transportation system in time for protection to be given.

(b) Where the railroad or rail fixed guideway public transportation system has provided a flagger, the person operating or moving such equipment shall obey the direction of the flagger.

(c) The person operating or moving such equipment must do all of the following:

(A) The person must stop before making the crossing at a clearly marked line or, if there is no clearly marked line, not less than 15 feet nor more than 50 feet from the nearest rail.

(B) While so stopped, the person must look and listen in both directions along the tracks for approaching trains or other on-track equipment.

(C) The person may not proceed across the tracks unless the crossing can be made safely.

(2) This section applies to the operation of movement across railroad or rail fixed guideway public transportation system tracks of any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway.

(3) The offense described in this section, improper movement of heavy equipment across a rail crossing, is a Class B traffic violation. [1983 c.338 §651; 1985 c.16 §319; 1995 c.383 §73; 1997 c.249 §233; 2001 c.522 §7; 2017 c.46 §8; 2017 c.176 §5]

811.475 Obstructing rail crossing; penalty. (1) A person commits the offense of obstructing a rail crossing if the person is operating a vehicle and the person does either of the following:

(a) Drives onto any railroad or rail fixed guideway public transportation system grade crossing when there is not sufficient space on the other side of the railroad or rail fixed guideway public transportation system grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, railroad trains, other on-track equipment or rail fixed guideway public transportation system vehicles; or

(b) While driving a commercial motor vehicle, fails to negotiate the rail crossing because of insufficient undercarriage clearance.

(2) The offense described in this section is applicable whether or not a traffic control device indicates to proceed.

(3) The offense described in this section, obstructing rail crossings, is a Class B traffic violation. [1983 c.338 §652; 1995 c.383 §74; 2001 c.492 §5; 2001 c.522 §8; 2017 c.46 §9; 2017 c.176 §7]

(Miscellaneous)

811.480 Illegal backing; penalty. (1) A person commits the offense of illegal backing if the person backs a vehicle the person is driving when it is not safe to do so or when it causes interference with other traffic upon a highway.

(2) The offense described in this section, illegal backing, is a Class D traffic violation. [1983 c.338 §653; 1995 c.383 §75]

811.481 [2015 c.1 §73; repealed by 2016 c.24 §76]

811.482 Use of marijuana in motor vehicle; penalty. (1) As used in this section:

(a) "Consumes" includes the inhalation of smoke from a marijuana item by a driver or passenger of a motor vehicle.

(b) "Marijuana item" has the meaning given that term in ORS 475B.015.

(2) A person commits the offense of use of marijuana in a motor vehicle if the person consumes in any manner a marijuana item while in a motor vehicle when the motor vehicle is upon a highway.

(3) This section does not apply to passengers in a motor vehicle that is operated by a common carrier and used primarily to carry passengers for hire.

(4) Use of marijuana in a motor vehicle is a Class B traffic violation. [2016 c.24 §49]

Note: 811.482 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.483 Safety corridors; penalty. (1) The Department of Transportation shall post signs in safety corridors chosen by the department indicating that fines for traffic offenses committed in those safety corridors will be doubled.

(2)(a) The presumptive fine for a person charged with an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a safety corridor chosen by the department under subsection (1) of this section shall be the amount established under ORS 153.020.

(b) The minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a safety corridor is 20 percent of the maximum fine established for the offense.

(c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a safety corridor is two percent of the maximum fine established for the offense.

(3) This section applies to the following offenses if committed in the designated safety corridors:

(a) Class A or Class B traffic violations.

(b) Class C or Class D traffic violations related to exceeding a legal speed.

(c) Reckless driving, as defined in ORS 811.140.

(d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(e) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540. [1999 c.1071 §5; 1999 c.1071 §5a; 2001 c.421 §1; 2003 c.100 §3; 2007 c.124 §1; 2011 c.597 §116; 2018 c.22 §11]

(Safety corridor pilot program)

Note: Sections 1, 2 and 6, chapter 501, Oregon Laws 2019, provide:

Sec. 1. Section 2 of this 2019 Act is added to and made a part of the Oregon Vehicle Code. [2019 c.501 §1]

Sec. 2. (1)(a) The Department of Transportation shall establish a safety corridor pilot program in this state to evaluate the processes for and effectiveness of allowing counties to designate as safety corridors roads over which the counties have road authority.

(b) The County Safety Corridor Advisory Group established in subsection (3)(a) of this section shall select up to five counties in the state to participate in the pilot program established in paragraph (a) of this subsection.

(c) The county commission for each county selected under paragraph (b) of this subsection may designate one segment of highway that is between 2 and 10 miles long as a safety corridor.

(d) A safety corridor designated under paragraph (c) of this subsection must satisfy the criteria established by the advisory group under subsection (3)(c)(A) of this section.

(e) The department shall adopt rules necessary to carry out the provisions of this section.

(2)(a) Each county selected under subsection (1)(b) of this section shall post signs in the safety corridor designated by the county indicating that fines for traffic offenses committed in the safety corridor will be doubled.

(b) The presumptive fine for a person charged with an offense that is listed in paragraph (e)(A) or (B) of this subsection and that is committed in a safety corridor designated by a county under this section shall be the amount established under ORS 153.020.

(c) The minimum fine for a person convicted of a misdemeanor offense that is listed in paragraph (e)(C) to (G) of this subsection and that is committed in a safety corridor designated by a county under this section is 20 percent of the maximum fine established for the offense.

(d) The minimum fine for a person convicted of a felony offense that is listed in paragraph (e)(C) to (G) of this subsection and that is committed in a safety corridor designated by a county under this section is two percent of the maximum fine established for the offense.

(e) This subsection applies to the following offenses if committed in the designated safety corridors:

(A) Class A or Class B traffic violations.

(B) Class C or Class D traffic violations related to exceeding a legal speed.

(C) Reckless driving, as defined in ORS 811.140.

(D) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(E) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(F) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(G) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(3)(a) The County Safety Corridor Advisory Group is established.

(b) The Director of Transportation shall appoint the following members to serve on the advisory group:

(A) Two members who are representatives of the Department of Transportation;

(B) Two members who are representatives of counties;

(C) One member who is a firefighter or emergency medical services provider; and

(D) One member who is a representative of a law enforcement agency.

(c) The advisory group shall:

(A) Establish objective criteria for designating a segment of highway as a safety corridor under subsection (1)(c) of this section;

(B) Establish requirements for the counties selected under subsection (1)(b) of this section, including for regular community engagement, heightened enforcement, engineering improvements, infrastructure investments and public outreach; and

(C) Establish content requirements for reports mandated under subsection (4)(a) of this section.

(4)(a) Each county selected under subsection (1)(b) of this section shall, in consultation with the department, prepare two reports on its findings, including any recommendations for legislation, and shall submit the reports to an appropriate committee or interim committee of the Legislative Assembly related to transportation.

(b) The first report must be submitted no later than September 15, 2022. The second report must be submitted no later than September 15, 2024.

(c) Each report must satisfy the content requirements established by the advisory group under subsection (3)(c)(C) of this section. [2019 c.501 §2]

Sec. 6. Section 2 of this 2019 Act is repealed on January 2, 2026. [2019 c.501 §6]

811.485 Following too closely; penalty. (1) A person commits the offense of following too closely if the person does any of the following:

(a) Drives a motor vehicle so as to follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon, and condition of, the highway.

(b) Drives a truck, commercial bus or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district or upon a freeway within the corporate limits of a city and follows another truck, commercial bus or motor vehicle drawing another vehicle without, when conditions permit, leaving sufficient space so that an overtaking vehicle may enter and occupy the space without danger. This paragraph does not prevent a truck, commercial bus or motor vehicle drawing another vehicle from overtaking and passing a vehicle or combination of vehicles.

(c) Drives a motor vehicle when traveling upon a roadway outside of a business or residence district or upon a freeway within the corporate limits of a city in a caravan or motorcade whether or not towing another vehicle without operating the vehicle so as to leave sufficient space between vehicles to enable a vehicle to enter and occupy the space without danger.

(2) This section does not apply in the case of a funeral procession. Except for the funeral lead vehicle, vehicles participating in a funeral procession shall follow the preceding vehicle as closely as is reasonable and safe.

(3)(a) This section does not apply to a person operating a vehicle that is part of a connected automated braking system.

(b) As used in this subsection, "connected automated braking system" means a system that uses vehicle-to-vehicle communication to

electronically coordinate the braking of a lead vehicle with the braking of one or more following vehicles.

(4) The offense described in this section, following too closely, is a Class B traffic violation. [1983 c.338 §654; 1991 c.482 §20; 2007 c.794 §5; 2018 c.93 §40]

811.490 Improper opening or leaving open of vehicle door; penalty. (1) A person commits the offense of improper opening or leaving open a vehicle door if the person does any of the following:

(a) Opens any door of a vehicle unless and until it is reasonably safe to do so and it can be done without interference with the movement of traffic, or with pedestrians and bicycles on sidewalks or shoulders.

(b) Leaves a door open on the side of a vehicle available to traffic, or to pedestrians or bicycles on sidewalks or shoulders for a period of time longer than necessary to load or unload passengers.

(2) The offense described in this section, improper opening or leaving open a vehicle door, is a Class D traffic violation. [1983 c.338 §655; 1985 c.16 §320]

811.492 Engine braking; penalty; exception. (1) A person commits the offense of engine braking if the person is operating a motor vehicle on a highway and uses an unmuffled engine brake.

(2) The offense described in this section, engine braking, is a Class A traffic violation.

(3) A person is not in violation of this section if the person uses an unmuffled engine brake in an emergency situation to avoid imminent danger to a person or to property. [1993 c.314 §7]

811.495 Unlawful coasting on downgrade; exception; penalty. (1) A person commits the offense of unlawful coasting on a downgrade if the person is the driver of a vehicle on a downgrade and the person coasts with the gears or transmission of the motor vehicle in neutral or with the clutch disengaged.

(2) This section does not apply to the driver of a motorized bicycle.

(3) The offense described in this section, unlawful coasting on a downgrade, is a Class D traffic violation. [1983 c.338 §656; 1985 c.16 §321; 1995 c.383 §76]

811.500 Unlawful stop or deceleration; penalty. (1) A person commits the offense of unlawful stop or deceleration if the person is operating a vehicle and the person stops or suddenly decreases the speed of the vehicle without first giving an appropriate signal to the driver immediately to the rear when there is opportunity to give the signal.

(2) Appropriate signals for the purpose of this section are as designated under ORS 811.395 and 811.400.

(3) The offense described in this section, unlawful stop or deceleration, is a Class B traffic violation. [1983 c.338 §657; 1995 c.383 §77]

811.505 Failure to stop when emerging from alley, driveway or building; penalty. (1) A person commits the offense of failure to stop when emerging from an alley, driveway or building if the person is operating a vehicle that is emerging from an alley, building, private road or driveway in a business or residence district and the person does not stop the vehicle as follows:

(a) If there is a sidewalk or sidewalk area, the person must stop the vehicle before driving onto the sidewalk or sidewalk area.

(b) If there is no sidewalk or sidewalk area, the person must stop at the point nearest the roadway to be entered where the driver has a view of approaching traffic.

(2) The offense described in this section, failure to stop when emerging from an alley, driveway or building, is a Class B traffic violation. [1983 c.338 §658; 1985 c.16 §322; 1995 c.383 §78]

811.507 Operating motor vehicle while using mobile electronic device; exceptions; penalty. (1) As used in this section:

(a)(A) "Driving" means operating a motor vehicle on a highway or premises open to the public, and while temporarily stationary because of traffic, a traffic control device or other momentary delays.

(B) "Driving" does not include when the motor vehicle has stopped in a location where it can safely remain stationary and:

(i) Is pulled over on the side of, or is pulled off, a roadway;

(ii) Is in a designated parking space; or

(iii) Is required to park in the roadway to conduct construction or utility maintenance work.

(b) "Hands-free accessory" means an attachment or built-in feature for or an addition to a mobile electronic device that gives a person the ability to keep both hands on the steering wheel at all times while using the device or requires only the minimal use of a finger, via a swipe or tap, to activate or deactivate a function of the device.

(c) "Livestock" has the meaning given that term in ORS 609.125.

(d)(A) "Mobile electronic device" means an electronic device that is not permanently installed in a motor vehicle.

(B) "Mobile electronic device" includes but is not limited to a device capable of text messaging, voice communication, entertain-

ment, navigation, accessing the Internet or producing electronic mail.

(e) "Using a mobile electronic device" includes but is not limited to using a mobile electronic device for text messaging, voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.

(2) A person commits the offense of driving a motor vehicle while using a mobile electronic device if the person, while driving a motor vehicle on a highway or premises open to the public:

(a) Holds a mobile electronic device in the person's hand; or

(b) Uses a mobile electronic device for any purpose.

(3) This section does not apply to a person:

(a) Who is employed as a commercial motor vehicle driver, or as a school bus driver, and is using a mobile electronic device within the scope of the person's employment if the use is permitted under regulations promulgated pursuant to 49 U.S.C. 31136;

(b) Who is employed as a driver of a vehicle having a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds and is using a mobile electronic device within the scope of the person's employment and as required under regulations promulgated pursuant to 49 U.S.C. 31137;

(c) Who is operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the business, citizens' or family radio service bands in accordance with rules of the Federal Communications Commission while transporting forest products, or while operating a vehicle to assist in logging operations, within the scope of the person's employment;

(d) Who is using a two-way radio device while operating a school bus or school activity vehicle within the scope of the person's employment;

(e) Who is using a two-way radio device or operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the business, citizens' or family radio service bands in accordance with rules of the Federal Communications Commission while operating a vehicle owned or contracted by a utility for the purpose of installing, repairing, maintaining, operating or upgrading utility service, including but not limited to natural gas, electricity, water or telecommunications, within the scope of the person's employment;

(f) Who is using a two-way radio device while operating a vehicle wider than the lane of travel, a vehicle transporting livestock or a vehicle requiring a slow-moving vehicle emblem under ORS 815.110, and the use of the device facilitates the safe operation of the vehicle; or

(g) Who is using a two-way radio device while operating a pilot or safety vehicle used to assist the safe movement of a vehicle described in paragraph (f) of this subsection, and the use of the device facilitates the safe movement of the vehicle described in paragraph (f) of this subsection.

(4) It is an affirmative defense to a prosecution of a person under this section that the person:

(a) Used the mobile electronic device to communicate if the person was summoning or providing medical or other emergency help if no other person in the vehicle was capable of summoning help;

(b) Was 18 years of age or older and was using a hands-free accessory;

(c) Was driving an ambulance or emergency vehicle while acting within the scope of the person's employment;

(d) Was a police officer, firefighter or emergency medical services provider and was acting within the scope of the person's employment;

(e) Was 18 years of age or older, held a valid amateur radio operator license issued or any other license issued by the Federal Communications Commission and was operating an amateur radio;

(f) Was operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the business, citizens' or family radio service bands in accordance with rules of the Federal Communications Commission to summon medical or other emergency help; or

(g) Was using a medical device.

(5) The offense described in this section, driving a motor vehicle while using a mobile electronic device, is:

(a) Except as provided in paragraph (b) of this subsection, for a person's first conviction, a Class B traffic violation.

(b) For a person's first conviction, if commission of the offense contributes to an accident described in ORS 811.720, a Class A traffic violation.

(c) For a person's second conviction within a 10-year period following the date of the person's first conviction, a Class A traffic violation.

(d) For a person's third or subsequent conviction within a 10-year period preceding the date of the person's current conviction, a Class B misdemeanor.

(6) In addition to any other sentence that may be imposed, the court shall impose a minimum fine of $2,000 on a person convicted of a Class B misdemeanor under subsection (5)(d) of this section.

(7) For purposes of this section, sentences for two or more convictions that are imposed in the same sentencing proceeding are considered to be one sentence.

(8)(a) For a person's first conviction of driving a motor vehicle while using a mobile electronic device, the court may suspend the fine to be imposed under subsection (5)(a) of this section on the condition that the person, within 120 days of sentencing:

(A) Complete at the person's own expense a distracted driving avoidance course approved by the Department of Transportation under ORS 811.508; and

(B) Provide proof of completion to the court.

(b) The court may schedule a hearing to determine whether the person successfully completed the distracted driving avoidance course.

(c) If the person has successfully completed the requirements described in paragraph (a) of this subsection, the court shall enter a sentence of discharge. Notwithstanding ORS 153.021, a sentence of discharge imposed under this paragraph may not include a fine.

(d) If the person has not successfully completed the requirements described in paragraph (a) of this subsection, the court shall:

(A) Grant the person an extension based on good cause shown; or

(B) Impose the fine under subsection (5)(a) of this section.

(9) The department shall place signs on state highways to notify drivers that it is unlawful to drive a motor vehicle on the highways of this state while using a mobile electronic device and violators are subject to criminal penalties. [2007 c.870 §2; 2009 c.834 §1; 2011 c.530 §1; 2013 c.757 §1; 2017 c.629 §§1,2; 2018 c.32 §1]

Note: Section 5, chapter 629, Oregon Laws 2017, provides:

Sec. 5. The amendments to ORS 811.507 by section 1, chapter 629, Oregon Laws 2017, apply to:

(1) Offenses committed on or after October 1, 2017; and

(2) For purposes of determining prior convictions within a 10-year period under ORS 811.507 (5)(c) or (d), prior convictions occurring on or after July 1, 2018. [2017 c.629 §5; 2018 c.32 §3]

Note: Section 4, chapter 32, Oregon Laws 2018, provides:

Sec. 4. (1) A person convicted of an offense under ORS 811.507 (5)(c) or (d), the classification of which was enhanced due to the court taking into account one or more prior convictions occurring before July 1, 2018, may request in writing that the court redetermine the classification of the offense.

(2) Upon receipt of a request under this section, if the court determines that the classification of the offense was based upon the court taking into account one or more prior convictions occurring before July 1, 2018, the court shall vacate the judgment of conviction and enter a new judgment of conviction for a Class B or Class A traffic violation in accordance with ORS 811.507 (5)(a) or (b). [2018 c.32 §4]

Note: 811.507 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.508 Distracted driving avoidance course; rules. (1) The Department of Transportation by rule shall establish standards for a distracted driving avoidance course provided to persons who violate ORS 811.507. The standards must describe the contents and quality of a curriculum for the course, specify requirements for obtaining a certificate or other evidence of having completed the course and otherwise determine the level and depth of knowledge a person must have obtained from the course.

(2) The department shall maintain a list of providers approved to lead the course described in this section and shall update the list monthly. The department shall prescribe procedures for providing the provider list to courts. [2017 c.629 §4]

Note: 811.508 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.510 Dangerous operation around livestock; penalty. (1) A person commits the offense of dangerous operation around livestock if the person is operating a vehicle upon a highway and the person fails to do any of the following:

(a) A driver shall use caution when approaching or passing a person riding, leading or herding livestock on the highway.

(b) If a person riding or leading livestock upon a highway gives a distress signal to an approaching driver by raising a hand, the driver must promptly stop the driver's vehicle, unless movement forward is necessary to avoid an accident, and, if requested, shall turn off the engine until the livestock is under control.

(c) A driver shall yield the right of way to livestock being driven on a highway.

(2) This section is only applicable if the livestock is an animal of the species of horses, mules, donkeys, cattle, swine, sheep or goats.

(3) The offense described in this section, dangerous operation around livestock, is a Class B traffic violation. [1983 c.338 §666]

811.512 Unlawfully operating low-speed vehicle on highway; penalty. (1) A person commits the offense of unlawfully operating a low-speed vehicle on a highway if the person operates a low-speed vehicle on a highway that has a speed limit or posted speed of more than 35 miles per hour.

(2) Notwithstanding subsection (1) of this section, a city or county may adopt an ordinance allowing operation of low-speed vehicles on city streets or county roads that have speed limits or posted speeds of more than 35 miles per hour.

(3) Notwithstanding subsection (1) of this section, a person does not commit the offense of unlawfully operating a low-speed vehicle on a highway if the person operates a farm tractor on a state highway that has a speed limit or posted speed of more than 35 miles per hour.

(4) The offense described in this section, unlawfully operating a low-speed vehicle on a highway, is a Class B traffic violation. [2001 c.293 §8; 2019 c.59 §1]

811.513 Unlawfully operating medium-speed electric vehicle on highway; penalty. (1) A person commits the offense of unlawfully operating a medium-speed electric vehicle on a highway if the person operates a medium-speed electric vehicle on a highway with a posted speed limit that is greater than 45 miles per hour.

(2) Notwithstanding subsection (1) of this section, a city or county may adopt an ordinance allowing operation of medium-speed electric vehicles on city streets or county roads that have speed limits or posted speeds of more than 45 miles per hour.

(3) The offense described in this section, unlawfully operating a medium-speed electric vehicle on a highway, is a Class B traffic violation. [2009 c.865 §13]

Note: 811.513 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.514 Unlawfully operating racing activity vehicle on highway; penalty. (1) A person commits the offense of unlawfully operating a racing activity vehicle on a highway if the person operates a racing activity vehicle on a highway that has a speed limit or posted speed that is greater than 55 miles per hour.

(2) The offense described in this section, unlawfully operating a racing activity vehicle on a highway, is a Class B traffic violation. [2007 c.693 §3c]

Note: 811.514 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

USE OF LIGHTS AND WARNINGS

(Lights)

811.515 When lights must be displayed; kind of light; number; direction; use on certain vehicles. This section establishes requirements for ORS 811.520. Except where an exemption under ORS 811.525 specifically provides otherwise, a vehicle that does not comply with this section is in violation of ORS 811.520. Where specific types of lighting equipment are mentioned in this section, those types are types described in ORS 816.040 to 816.290. The requirements under this section are as follows:

(1) Subject to any other provision of this section, any lighting equipment a vehicle is required to be equipped with under ORS 816.040 to 816.290 must be displayed when the vehicle is upon a highway within this state at any time limited visibility conditions exist. The provisions of this subsection apply during the times stated when the required visibility is measured on a straight, level unlighted highway.

(2) Parking lights and lights other than clearance, identification and marker lights that are mounted on the front of a vehicle and are designed to be displayed primarily when the vehicle is parked shall not be lighted when a vehicle is driven upon a highway at times when limited visibility conditions exist except when:

(a) The lights are being used as turn signals; or

(b) The headlights are also lighted at the same time.

(3) Any vehicle parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during times when limited visibility conditions exist must display parking lights.

(4) All vehicles not specifically required by ORS 816.320 to be equipped with lighting equipment shall at times when limited visibility conditions exist display exempt-vehicle safety lighting equipment. This section includes, but is not limited to, animal drawn vehicles and vehicles exempted from required lighting equipment under ORS 816.340.

(5) Tow vehicle warning lights on tow vehicles shall be activated when the tow vehicles are engaged in connecting with other vehicles and drawing such vehicles onto highways or while servicing disabled vehicles.

(6) When limited visibility conditions exist a person shall use a distribution of light or composite beam that is directed sufficiently high and that is of such intensity so as to reveal persons and vehicles on the highway at a safe distance in advance of the vehicle. A person violates this subsection if the person does not comply with the following:

(a) Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, the driver must use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The use of the low beams of the vehicle headlight system is in compliance with this paragraph at all times regardless of road contour and loading of the vehicle.

(b) Except when in the act of overtaking or passing, a driver of a vehicle following another vehicle within 350 feet to the rear must use the low beams of the vehicle headlight system.

(7) When a vehicle is upon a highway a person shall light not more than a total of four lights at any one time that are mounted on the front of a vehicle and that each projects a beam of intensity greater than 300 candlepower.

(8)(a) A light, other than a headlight, that projects a beam of light of an intensity greater than 300 candlepower shall not be operated on a vehicle:

(A) Unless the beam is so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle; or

(B) Except as provided in paragraph (b) of this subsection, when use of the low beams of the vehicle headlight system is required under subsection (6) of this section.

(b) Notwithstanding paragraph (a)(B) of this subsection, a light, other than a headlight, may be lighted on a motorcycle provided that the intensity of the light does not exceed the intensity of the low beams of the headlight system. A motorcycle may not be operated with more than two lights, other than headlights, under this paragraph.

(9) A spotlight shall not be lighted upon approaching another vehicle unless the spotlight is so aimed and used so that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle upon which it is mounted, more than 100 feet ahead of the vehicle.

(10) Auxiliary lights mounted higher than 54 inches shall not be lighted when the vehicle is used on a highway.

(11) A back-up light shall not be lighted when the vehicle is in forward motion.

(12) Bus safety lights shall only be operated in accordance with the following:

(a) The lights may be operated when the vehicle is stopping or has stopped for the purpose of loading or unloading students who are going to or from any school or authorized school activity or function.

(b) The lights may be operated when the vehicle is stopping or has stopped for the purpose of loading or unloading workers from worker transport buses.

(c) The lights may be operated when the vehicle is stopping or has stopped for the purpose of loading or unloading children being transported to or from religious services or an activity or function authorized by a religious organization.

(d) The lights may be operated when the vehicle is stopping or has stopped in a place that obstructs other drivers' ability to see the bus safety lights on another vehicle.

(e) Notwithstanding any other paragraph of this subsection, the lights shall not be operated if the vehicle is stopping or has stopped at an intersection where traffic is controlled by electrical traffic control signals, other than flashing signals, or by a police officer.

(f) Notwithstanding any other paragraph of this subsection, the lights shall not be operated if the vehicle is stopping or has stopped at a loading or unloading area where the vehicle is completely off the roadway.

(13)(a) Hazard lights shall be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(b) Hazard lights shall be used by the first and last vehicles in a funeral procession.

(14) Mail delivery lights may be used only while in active service transporting United States mail for the purpose of warning other vehicle operators of the vehicle's presence and to exercise caution in approaching, overtaking or passing. A vehicle with mail delivery lights is in compliance with this subsection if the lights are flashed continuously while the vehicle is in motion in active service transporting mail or if the lights are actuated by application of the service brake while the vehicle is parked.

(15) A pilot vehicle warning light may be activated only when the vehicle equipped with the light is an escort accompanying a motor vehicle carrying or towing a load of a size or description not permitted under ORS 818.020, 818.060, 818.090 or 818.160.

(16) Fire company warning lights authorized under a permit granted under ORS 818.250 may be used by the persons authorized under the permit while being driven to a fire station or fire location in response to a fire alarm. Fire company warning lights authorized under ORS 811.800 may be used by funeral escort vehicle or funeral lead vehicle drivers while driving in a funeral procession. The lights shall be covered or otherwise concealed when not being displayed as provided in this subsection.

(17) Any lighted headlights upon a parked vehicle shall be dimmed.

(18) Commercial vehicle warning lights may be used only:

(a) To warn operators of other vehicles of the presence of a traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the commercial vehicle; and

(b) When the commercial vehicle is being used for commercial purposes and the vehicle is:

(A) Stopped, parked or left standing at a commercial or work site; or

(B) In a highway work zone as defined in ORS 811.230. [1983 c.338 §660; 1985 c.71 §7; 1989 c.402 §1; 1991 c.482 §19; 2003 c.118 §2; 2003 c.245 §1]

811.520 Unlawful use or failure to use lights; penalty. (1) A person commits the offense of unlawful use or failure to use lights if the person does any of the following:

(a) Drives or moves on any highway any vehicle at a time when vehicle lighting is required to be operated or is prohibited from being operated under ORS 811.515 and operates or fails to operate lighting equipment as required under ORS 811.515.

(b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway at a time when ORS 811.515 requires or prohibits the operation of vehicle lighting equipment without compliance with the requirements under ORS 811.515.

(c) Drives any vehicle in a funeral procession without using the low beam headlights.

(2) The application of this section is subject to the exemptions from this section established under ORS 811.525.

(3) The offense described in this section, unlawful use of or failure to use lights, is a Class B traffic violation, except that violation of ORS 811.515 (3), (4), (13) or (17) or subsection (1)(c) of this section is a Class D traffic violation. [1983 c.338 §659; 1985 c.16 §323; 1991 c.482 §21; 1995 c.383 §21]

811.525 Exemptions from requirements for use of lights. This section establishes exemptions from ORS 811.515 and 811.520. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions established under this section are partial or complete as described in the following:

(1) ORS 811.515 and 811.520 shall not be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of those sections.

(2) Except for the provisions relating to exempt-vehicle safety lighting equipment, ORS 811.515 and 811.520 do not apply to any of the following:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors.

(d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(3) Whenever motor and other vehicles are operated in combination during the time that lights are required, any lighting equipment, except the taillight, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination, need not be lighted. This subsection shall not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights nor the requirement that all lights on the rear of the rearmost vehicle of the combination be lighted.

(4) Lighting equipment on bicycles shall be lighted as required under ORS 815.280.

(5) Parked or stopped vehicles are not required to display parking lights if the road authority for the highway provides by ordinance or resolution that no lights need be displayed upon a vehicle parked on the highway in accordance with legal parking regulations where there is sufficient light to render clearly discernible any person or object within a distance of 500 feet from the highway.

(6) Nothing under ORS 811.515 and 811.520 limits the ability to use the following lights with any other lights during the day or at night:

(a) Public vehicle warning lights.

(b) Pilot vehicle warning lights.

(c) Tow vehicle warning lights.

(d) Police lights.

(e) Warning lights on vehicles at the scene of an actual or potential release of

hazardous materials, as described in ORS 816.280.

(f) Warning lights on vehicles being used by medical examiners to reach the scene of an accident or of a death investigation, as described in ORS 816.280.

(g) Commercial vehicle warning lights.

(7) Requirements for use of motorcycle and moped headlights are under ORS 814.320.

(8) Requirements for lighting equipment for an electric personal assistive mobility device are under ORS 815.284. [1983 c.338 §661; 1985 c.16 §324; 1985 c.71 §8; 1999 c.497 §2; 2003 c.245 §2; 2003 c.341 §9; 2015 c.138 §30]

811.526 Safety campaign for use of headlights. The Department of Transportation shall conduct a safety campaign to educate people about the advantages of using headlights in fog or rain or when driving on a single lane highway. The campaign shall include, but need not be limited to, encouraging people to drive with headlights on under the specified conditions. [1997 c.464 §1]

Note: 811.526 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Flares)

811.530 Failure to post warnings for disabled vehicle; application; penalty. (1) A person commits the offense of failure to post warnings for a disabled vehicle if the person is the driver, or other person in charge of a vehicle subject to this section, and the person does not cause the placement of such roadside vehicle warning devices as the Department of Transportation may require under ORS 815.035 when the vehicle is disabled during limited visibility conditions and cannot immediately be removed from the main traveled portion of a highway outside of a business district or residence district.

(2) This section applies only to the following vehicles:

(a) School buses.

(b) School activity vehicles.

(c) Worker transport buses.

(d) Vehicles used in transportation of persons for hire by a nonprofit entity.

(e) A bus being operated for transporting children to and from religious services or an activity or function authorized by the religious organization.

(f) Commercial buses.

(g) Motor trucks with a registration weight in excess of 8,000 pounds.

(h) Trailers with a registration weight in excess of 8,000 pounds.

(3) Requirements to be equipped with roadside vehicle warning devices are contained in ORS 815.285.

(4) The offense described in this section, failure to post warnings for a disabled vehicle, is a Class B traffic violation. [1983 c.338 §662; 1985 c.16 §325; 1985 c.420 §11; 1989 c.992 §21; 2015 c.283 §7]

OBEYING POLICE

811.535 Failing to obey police officer; penalty. (1) A person commits the offense of failing to obey a police officer if the person refuses or fails to comply with any lawful order, signal or direction of a police officer who:

(a) Is displaying the police officer's star or badge; and

(b) Has lawful authority to direct, control or regulate traffic.

(2) The offense described in this section, failing to obey a police officer, is a Class B traffic violation. [1983 c.338 §663; 1995 c.383 §79]

811.540 Fleeing or attempting to elude police officer; penalty. (1) A person commits the crime of fleeing or attempting to elude a police officer if:

(a) The person is operating a motor vehicle; and

(b) A police officer who is in uniform and prominently displaying the police officer's badge of office or operating a vehicle appropriately marked showing it to be an official police vehicle gives a visual or audible signal to bring the vehicle to a stop, including any signal by hand, voice, emergency light or siren, and either:

(A) The person, while still in the vehicle, knowingly flees or attempts to elude a pursuing police officer; or

(B) The person gets out of the vehicle and knowingly flees or attempts to elude the police officer.

(2) It is an affirmative defense to a prosecution of a person under this section that, after a police officer operating a vehicle not marked as an official police vehicle signaled the person to bring the person's vehicle to a stop, the person proceeded lawfully to an area the person reasonably believed was necessary to reach before stopping.

(3) The offense described in this section, fleeing or attempting to elude a police officer, is applicable upon any premises open to the public and:

(a) Is a Class C felony if committed as described in subsection (1)(b)(A) of this section; or

(b) Is a Class A misdemeanor if committed as described in subsection (1)(b)(B) of this

section. [1983 c.338 §664; 1991 c.655 §1; 1997 c.532 §1; 1997 c.860 §1]

PARKING, STOPPING AND STANDING

(Generally)

811.550 Places where stopping, standing and parking prohibited. This section establishes places where stopping, standing and parking a vehicle are prohibited for purposes of the penalties under ORS 811.555. Except as provided under an exemption in ORS 811.560, a person is in violation of ORS 811.555 if a person parks, stops or leaves standing a vehicle in any of the following places:

(1) Upon a roadway outside a business district or residence district, whether attended or unattended, when it is practicable to stop, park or leave the vehicle standing off the roadway. Exemptions under ORS 811.560 (1), (7), (9), (11) and (12) are applicable to this subsection.

(2) On a shoulder, whether attended or unattended, unless a clear and unobstructed width of the roadway opposite the standing vehicle is left for the passage of other vehicles and the standing vehicle is visible from a distance of 200 feet in each direction upon the roadway or the person, at least 200 feet in each direction upon the roadway, warns approaching motorists of the standing vehicle by use of flaggers, flags, signs or other signals. Exemptions under ORS 811.560 (9), (11) and (12) are applicable to this subsection.

(3) On the roadway side of a vehicle stopped or parked at the edge or curb of a highway. Exemptions under ORS 811.560 (7), (11) and (12) are applicable to this subsection.

(4) On a sidewalk. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(5) Within an intersection. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(6) On a crosswalk. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs and markings. For purposes of this subsection the safety zone must be an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(8) Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(9) Upon a bridge or other elevated structure upon a highway. Exemptions under ORS 811.560 (4) to (8), (11) and (12) are applicable to this subsection.

(10) Within a highway tunnel. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(11) On any railroad or rail fixed guideway public transportation system tracks or within seven and one-half feet of the nearest rail at a time when the parking of vehicles would conflict with operations or repair of the tracks. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(12) On a throughway. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(13) In the area between roadways of a divided highway, including crossovers. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(14) At any place where traffic control devices prohibit stopping. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(15) In front of a public or private driveway. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(16) Within 10 feet of a fire hydrant. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(17) Within 20 feet of a crosswalk at an intersection. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(18) Within 50 feet upon the approach to an official flashing signal, stop sign, yield sign or traffic control device located at the side of the roadway if the standing or parking of a vehicle will obstruct the view of any traffic control device located at the side of the roadway. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(19) Within 15 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station, within 75 feet of the entrance. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(20) At any place where traffic control devices prohibit standing. Exemptions under

ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(21) Within 50 feet of the nearest rail of a railroad or rail fixed guideway public transportation system crossing. Exemptions under ORS 811.560 (3) to (7), (11) and (12) are applicable to this subsection.

(22) At any place where traffic control devices prohibit parking. Exemptions under ORS 811.560 (3) to (7), (11) and (12) are applicable to this subsection.

(23) On a bicycle lane. Exemptions under ORS 811.560 are applicable to this subsection.

(24) On a bicycle path. Exemptions under ORS 811.560 are applicable to this subsection. [1983 c.338 §669; 1985 c.21 §1; 1985 c.334 §1; 1989 c.433 §2; 1997 c.249 §234; 2001 c.522 §9; 2017 c.46 §10; 2019 c.232 §2]

811.555 Illegal stopping, standing or parking; affirmative defense; penalty. (1) A person commits the offense of illegal stopping, standing or parking if:

(a) The person stops, parks or leaves standing a vehicle in a place where such stopping, parking or standing is prohibited under ORS 811.550; or

(b) The person is the owner of an unattended vehicle parked in a place where such parking is prohibited under ORS 811.550.

(2) Exemptions from this section are established under ORS 811.560.

(3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is stopped, parked or left standing in violation of this section.

(4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(5) The offense described by this section, illegal stopping, standing or parking, is a Class D traffic violation. [1983 c.338 §668; 1987 c.687 §4]

811.560 Exemptions from prohibitions on stopping, standing or parking. This section provides exemptions from ORS 811.550 and 811.555. The following exemptions are applicable as provided under ORS 811.550:

(1) When applicable, this subsection exempts school buses or worker transport buses stopped on a roadway to load or unload workers or children, providing that the flashing school bus safety lights on the bus are operating.

(2) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily to pick up or discharge a passenger.

(3) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(4) When applicable, this subsection exempts vehicles owned or operated by the state, a county or city when stopping, standing or parking is necessary to perform maintenance or repair work on the roadway.

(5) When applicable, this subsection exempts vehicles from the prohibitions and penalties when the driver's disregard of the prohibitions is necessary to avoid conflict with other traffic.

(6) When applicable, this subsection exempts vehicles acting in compliance with law or at the direction of a police officer or a traffic control device.

(7) When applicable, this subsection exempts the driver of a vehicle that is disabled in such manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled vehicle in a prohibited position.

(8) When applicable, this subsection exempts vehicles owned or operated by the State Department of Fish and Wildlife when stopping, standing or parking is necessary to enable employees to release fish.

(9) When applicable, this subsection exempts vehicles momentarily stopped to allow oncoming traffic to pass before making a right-hand or left-hand turn or momentarily stopped in preparation for or while negotiating an exit from the road.

(10) When applicable, this subsection exempts commercial vehicles that are stopped, standing or parked when stopping, standing or parking is necessary to engage in any activity associated with the collection of solid waste, recyclable material or yard debris, as those terms are defined in ORS 459.005.

(11) When applicable, this subsection exempts vehicles owned or operated by a natural gas utility when stopping, standing or parking to investigate or repair a natural gas leak if:

(a) Immediate investigation is necessary; and

(b) The natural gas utility vehicle displays a sign denoting emergency responder status to investigate or respond to an emergency.

(12)(a) When applicable, this subsection exempts vehicles owned or operated by an electric utility when stopping, standing or parking is necessary to respond to an emer-

gency if the vehicle is identified as an electric utility vehicle and:

(A) There is also an emergency vehicle at the location; or

(B) The electric utility is investigating a downed or arcing utility line.

(b) As used in this subsection, "electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state. [1983 c.338 §670; 1985 c.334 §2; 1989 c.433 §3; 2013 c.250 §1; 2019 c.232 §1]

811.565 Dangerous movement of stopped, standing or parked vehicle; penalty. (1) A person commits the offense of dangerous movement of a stopped, standing or parked vehicle if the person moves a vehicle so stopped, standing or parked when the movement cannot be made with reasonable safety.

(2) The offense described in this section, dangerous movement of a stopped, standing or parked vehicle, is a Class B traffic violation. [1983 c.338 §675; 1995 c.383 §80]

811.570 Improperly positioning parallel parked vehicle; exception; affirmative defense; penalty. (1) A person commits the offense of improperly positioning a parallel parked vehicle if:

(a) The person stops or parks a vehicle on a highway where parallel parking is permitted and the vehicle is not parked in accordance with the following:

(A) Upon a two-way highway, the vehicle shall be positioned so that the right-hand wheels are parallel to and within 12 inches of the right curb or, if none, as close as possible to the right edge of the right shoulder.

(B) On a one-way highway where parallel parking is permitted on either side, a vehicle parked or stopped on the right side shall be positioned in accordance with the requirements of subparagraph (A) of this paragraph and a vehicle parked or stopped on the left side shall be positioned so that the left-hand wheels are parallel to and within 12 inches of the left curb or, if none, as close as possible to the left edge of the left shoulder.

(C) Where marked parking spaces are provided, a vehicle shall be positioned so that it faces in the direction in which vehicles in the adjacent lane of the roadway are required to travel and so that the wheels are within the parking space markings which are parallel to the curb or, if none, to the edge of the shoulder; or

(b) The person is the owner of an unattended vehicle parked on a highway in violation of paragraph (a) of this subsection.

(2) The provisions of this section do not apply to the driver of a vehicle that is disabled in such manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled vehicle in a position prohibited by this section.

(3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is parked in violation of this section.

(4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(5) The offense described in this section, improperly positioning a parallel parked vehicle, is a Class D traffic violation. [1983 c.338 §671; 1987 c.687 §5]

811.575 Violation of posted parking restrictions on state highways; affirmative defense; penalty. (1) A person commits the offense of violation of posted parking restrictions on state highways if appropriate signs or markings are posted giving notice of any regulations, restrictions or prohibitions on the parking, stopping or standing of vehicles on a state highway and:

(a) The person parks, stops or stands a vehicle on a state highway in violation of any such regulations, restrictions or prohibitions; or

(b) The person is the owner of an unattended vehicle parked on a state highway in violation of any such regulations, restrictions or prohibitions.

(2) Authority to impose restrictions, regulations and prohibitions on parking, stopping or standing of vehicles on state highways is established under ORS 810.160.

(3) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(4) The offense described in this section, violation of posted parking restrictions on state highways, is a Class D traffic violation. [1983 c.338 §672; 1987 c.687 §6]

811.580 Parking vehicle on state highway for vending purposes; penalty. (1) A driver commits the offense of unlawful parking for vending purposes if the person parks or leaves standing a vehicle on a right of way of a state highway for the purpose of advertising, selling or offering merchandise for sale except pursuant to written agreement with the Department of Transportation.

(2) The offense described in this section, unlawful parking for vending purposes is a Class D traffic violation. [1983 c.338 §674]

811.585 Failure to secure motor vehicle; affirmative defense; penalty. (1) A person commits the offense of failure to secure a motor vehicle if the person is driving or is in charge of a motor vehicle and:

(a) The person permits the vehicle to stand unattended on a highway without first doing all of the following:

(A) Stopping the engine.

(B) Turning the front wheels to the curb or side of the highway when standing upon any grade.

(C) Locking the ignition.

(D) Removing the key from the ignition.

(E) Effectively setting the brake on the vehicle; or

(b) The person is the owner of an unattended motor vehicle parked on a highway in violation of paragraph (a) of this subsection.

(2) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(3) The offense described in this section, failure to secure a motor vehicle, is a Class D traffic violation. [1983 c.338 §676; 1985 c.16 §326; 1987 c.687 §7; 1995 c.383 §81]

811.587 Unlawful parking in space reserved for alternative fuel vehicle refueling; penalty. (1) As used in this section, "alternative fuel vehicle" has the meaning given that term in ORS 469B.100, except that "alternative fuel vehicle" includes vehicles registered in any jurisdiction.

(2) A person commits the offense of unlawful parking in a space reserved for alternative fuel vehicle refueling if:

(a) The person parks a vehicle in any parking space that is on premises open to the public;

(b) The parking space is marked or signed as reserved for alternative fuel vehicle refueling; and

(c) The vehicle in the parking space is not engaged in the refueling process.

(3) The offense of unlawful parking in a space reserved for alternative fuel vehicle refueling is a Class D traffic violation. [2015 c.208 §1]

Note: 811.587 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: The definition of "alternative fuel vehicle" in 469B.100 was deleted by amendment by section 28, chapter 701, Oregon Laws 2015. The text of 811.587 was not amended by enactment of the Legislative Assembly to reflect the deletion. Editorial adjustment of 811.587 for the deletion of the definition has not been made.

(Winter Recreation Parking Areas)

811.590 Unlawful parking in winter recreation parking area; exemptions; penalty. (1) A person commits the offense of unlawful parking in a winter recreation parking area if the person parks a vehicle in a location designated as a winter recreation parking area under ORS 810.170 at any time from November 1 of any year to April 30 of the next year and the vehicle is not displaying a winter recreation parking permit issued under ORS 811.595.

(2) Unless the police officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the police officer, the operator of the vehicle is in violation of this section.

(3) In addition to those vehicles displaying a winter recreation parking permit, the following vehicles are not subject to the prohibition or penalty under this section:

(a) A vehicle owned and operated by the United States, another state or a political subdivision thereof.

(b) A vehicle owned and operated by this state or by any city, district or political subdivision thereof.

(c) A vehicle owned by a resident of another state if the vehicle displays a winter area parking permit issued in accordance with the laws of the state in which the owner of the vehicle resides and that is similar to the winter recreation parking permit issued under ORS 811.595. The exemption under this paragraph is only granted to the extent that a similar exemption or privilege is granted under the laws of the other state for vehicles displaying a winter recreation parking permit issued under ORS 811.595.

(4) The offense described in this section, unlawful parking in a winter recreation parking area, is a specific fine traffic violation. The presumptive fine for unlawful parking in a winter recreation parking area is $30. [1983 c.338 §678; 1999 c.1010 §1; 2007 c.810 §6; 2011 c.597 §98]

811.595 Winter recreation parking permit; rules; fees. A winter recreation parking permit is a vehicle permit that is issued as evidence of a grant of authority to park a vehicle in a winter recreation parking location established under ORS 810.170 without violation of ORS 811.590. The Department of Transportation shall establish a program for the issuance of winter recreation parking permits under this section. The program established by the department shall comply with all of the following:

(1) The department shall adopt rules necessary for the issuance and administration of winter recreation parking permits. The rules shall be adopted under ORS chapter 183.

(2) The department shall include all of the following in the rules adopted under this section:

(a) The type of permit.

(b) The manner in which the permit is to be issued.

(c) The manner of displaying the permit on a vehicle.

(d) Procedures for issuance of permits by persons appointed by the department.

(3) Vehicle permits issued under this section shall be transferable from vehicle to vehicle.

(4) The fees for issuance of winter recreation parking permits are as provided under ORS 811.600. [1983 c.338 §679; 1985 c.16 §327]

811.600 Fees for winter recreation parking permits. The Oregon Transportation Commission shall set the fees for issuance of a winter recreation parking permit issued under ORS 811.595 by rule. The commission shall consider recommendations of the Winter Recreation Advisory Committee in setting the fees under this section. The fees established for issuance of winter recreation parking permits shall be designed to cover the costs of enforcing the requirement for winter recreation parking permits and of removing snow from winter recreation parking locations designated under ORS 810.170, but may not exceed the following:

(1) For winter recreation parking permits valid for a period of one day, $5.

(2) For winter recreation parking permits valid for a period of three consecutive days, $10.

(3) For winter recreation parking permits valid for a period of one year beginning each November, $30. [1983 c.338 §684(1); 1985 c.16 §329(1); 1985 c.139 §5(1); 1993 c.245 §1; 1997 c.583 §7; 1999 c.1010 §2]

(Parking for Persons With Disabilities)

811.602 Disabled person parking permit; content; rules. (1) A disabled person parking permit is a means of identifying vehicles being used to exercise the parking privileges described in ORS 811.635. The following are disabled person parking permits:

(a) A special decal described in ORS 811.605 issued by the Department of Transportation to be affixed to a golf cart or substantially similar vehicle;

(b) An individual placard described in ORS 811.605;

(c) A program placard issued by the department under ORS 811.607;

(d) A family placard issued by the department under ORS 811.609;

(e) A foreign visitor placard issued by the department under ORS 811.611;

(f) A "Wheelchair User" placard or decal issued by the department under ORS 811.613; and

(g) An "Oregon Wounded Warrior" placard or decal issued by the department under ORS 811.616.

(2) The department shall issue a disabled person parking permit in the form of a decal or individual placard to any person who submits an application that complies with ORS 811.604. Nothing in this section prohibits the department from issuing a decal or individual placard to a person who has disabled veteran registration plates issued under ORS 805.100 and who qualifies for the decal or placard.

(3) Except as otherwise provided in this subsection, the department may not issue more than one individual placard to an applicant. The department may issue a replacement placard upon receipt of proof satisfactory to the department that the original placard has been lost, mutilated or destroyed. The department may issue a temporary duplicate permit to a person who needs a duplicate permit for travel purposes. A temporary duplicate permit shall be valid for 30 days. The department shall adopt rules governing application for and issuance of temporary duplicate permits. Nothing in this subsection prohibits issuance of an individual placard to a person who has been issued a decal.

(4) Permits issued under this section may be renewed by mail.

(5) Permits for use on vehicles that are regularly used as part of a program for the transportation of persons with disabilities are issued as provided in ORS 811.607.

(6) Except as provided in subsection (7) of this section, the department shall determine the form, size and content of any decal or placard issued under this section and shall adopt rules governing their issuance, display and use as necessary to carry out this section.

(7)(a) Except as provided in paragraph (b) of this subsection, the department may not require a decal or placard issued under this section to an individual or a family to contain any identifying information about the person to whom the decal or placard is issued, including any of the following:

(A) Name;

(B) Address;

(C) Telephone number;

(D) Social Security number;

(E) Driver license number;

(F) Golf cart driver permit number;

(G) Identification card number;

(H) Passport or visa number; or

(I) Photograph.

(b) The department may require a decal or placard issued under this section to an individual or a family to contain not more than four digits of the driver license or identification card number of the person to whom the decal or placard is issued. [1987 c.187 §7; 1989 c.243 §2; 1991 c.741 §1; 1993 c.751 §66; 1995 c.462 §1; 2001 c.827 §11; 2005 c.406 §1; 2007 c.70 §330; 2007 c.468 §5; 2018 c.69 §3; 2019 c.413 §1]

Note: The amendments to 811.602 by section 2, chapter 413, Oregon Laws 2019, become operative July 6, 2020. See section 3, chapter 413, Oregon Laws 2019. The text that is operative on and after July 6, 2020, is set forth for the user's convenience.

811.602. (1) A disabled person parking permit is a means of identifying vehicles being used to exercise the parking privileges described in ORS 811.635. The following are disabled person parking permits:

(a) A special decal described in ORS 811.605 issued by the Department of Transportation to be affixed to a golf cart or substantially similar vehicle;

(b) An individual placard described in ORS 811.605;

(c) A program placard issued by the department under ORS 811.607;

(d) A family placard issued by the department under ORS 811.609;

(e) A foreign visitor placard issued by the department under ORS 811.611;

(f) A "Wheelchair User" placard or decal issued by the department under ORS 811.613; and

(g) An "Oregon Wounded Warrior" placard or decal issued by the department under ORS 811.616.

(2) The department shall issue a disabled person parking permit in the form of a decal or individual placard to any person who submits an application that complies with ORS 811.604. Nothing in this section prohibits the department from issuing a decal or individual placard to a person who has disabled veteran registration plates issued under ORS 805.100 and who qualifies for the decal or placard.

(3) Except as otherwise provided in this subsection, the department may not issue more than one individual placard to an applicant. The department may issue a replacement placard upon receipt of proof satisfactory to the department that the original placard has been lost, mutilated or destroyed. The department may issue a temporary duplicate permit to a person who needs a duplicate permit for travel purposes. A temporary duplicate permit shall be valid for 120 days. The department shall adopt rules governing application for and issuance of temporary duplicate permits. Nothing in this subsection prohibits issuance of an individual placard to a person who has been issued a decal.

(4) Permits issued under this section may be renewed by mail.

(5) Permits for use on vehicles that are regularly used as part of a program for the transportation of persons with disabilities are issued as provided in ORS 811.607.

(6) Except as provided in subsection (7) of this section, the department shall determine the form, size and content of any decal or placard issued under this section and shall adopt rules governing their issuance, display and use as necessary to carry out this section.

(7)(a) Except as provided in paragraph (b) of this subsection, the department may not require a decal or placard issued under this section to an individual or a family to contain any identifying information about the person to whom the decal or placard is issued, including any of the following:

(A) Name;

(B) Address;

(C) Telephone number;

(D) Social Security number;

(E) Driver license number;

(F) Golf cart driver permit number;

(G) Identification card number;

(H) Passport or visa number; or

(I) Photograph.

(b) The department may require a decal or placard issued under this section to an individual or a family to contain not more than four digits of the driver license or identification card number of the person to whom the decal or placard is issued.

811.603 Parking identification card without photograph; issuance; rules. (1) The Department of Transportation shall issue a parking identification card without a photograph to an applicant for a disabled person parking permit if the applicant does not have a driver license, a driver permit or an identification card issued by the department under ORS 807.400 and if the applicant submits a statement from a physician that it would be impractical or harmful to the applicant, because of medical or physical condition, to appear at an office of the department and be photographed for an identification card.

(2) The department shall determine by rule the terms, conditions and requirements of a parking identification card issued under this section except that the department may not require either that an applicant appear personally in order to receive or renew a card or that the card contain a photograph. [1991 c.741 §2b; 2001 c.827 §12; 2008 c.1 §29]

811.604 Application for disabled person parking permit. Application for issuance or renewal of a disabled person parking permit in the form of an individual placard or decal issued under ORS 811.602 shall include:

(1) A certificate, signed and dated within six months preceding the date of application, by a licensed physician, a licensed nurse practitioner or a licensed physician assistant to the Department of Transportation that the applicant is a person with a disability or a certificate, signed and dated within six months preceding the date of application, by a licensed optometrist that the applicant is a person with a disability because of loss of vision or substantial loss of visual acuity or visual field beyond correction;

(2) The state-issued licensing number of the licensed physician, certified nurse prac-

titioner, licensed physician assistant or licensed optometrist who signed the certificate described in subsection (1) of this section; and

(3) The number of a current, valid driver license, golf cart driver permit, identification card or parking identification card issued to the applicant by the department. [1987 c.187 §8; 1989 c.243 §6; 1991 c.741 §2; 1995 c.462 §2; 1999 c.582 §16; 2001 c.827 §13; 2007 c.70 §331; 2008 c.1 §30; 2009 c.238 §1; 2019 c.358 §44]

811.605 Contents of individual placard or decal. (1) An applicant for an individual placard or decal issued by the Department of Transportation under ORS 811.602 must have a driver license, a disability golf cart driver permit, an identification card or a parking identification card issued by the department. The placard or decal shall be valid so long as the license, permit, identification card or parking identification card is valid and may be renewed when the license, permit or card is renewed.

(2) An individual placard or decal shall contain an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle. The expiration date shall be the same as the expiration date of the driver license, golf cart driver permit, identification card or parking identification card of the holder of the placard. [1989 c.243 §4; 2005 c.406 §2; 2008 c.1 §31]

811.606 Parking permit for person with temporary disability. The Department of Transportation may issue a placard showing an expiration date not to exceed six months after the date of issuance for use by persons with temporary disabilities upon submission by the applicant of a certificate described in ORS 811.604 except that it certifies that the applicant has a temporary disability for less than four years. An applicant for a temporary disabled person parking permit need not have a driver license, a driver permit, an identification card or a parking identification card. [1987 c.187 §9; 1987 c.296 §4; 1989 c.243 §7; 1991 c.741 §3; 1993 c.741 §85; 2001 c.827 §14; 2005 c.406 §3; 2007 c.70 §332; 2008 c.1 §32]

811.607 Program placards; rules. The Department of Transportation shall issue disabled person parking permits in the form of program placards for use on vehicles that are regularly used as part of a program for the transportation of persons with disabilities or by an adult foster home. All the following apply to placards issued under this section:

(1) The department shall determine the form, size and content of the placards except that the department shall require that a placard contain the name of the program holding the placard and the department shall require that the expiration date of a placard be visible when the placard is displayed in the vehicle.

(2) Placards issued under this section shall be valid for a period of eight years from the date of issue. Upon expiration, placards may be renewed in a manner determined by the department by rule. The department shall authorize renewal by mail of placards issued under this section.

(3) The department shall determine by rule how programs for the transportation of persons with disabilities may qualify vehicles for placards issued under this section. [1989 c.243 §5; 1991 c.741 §4; 1999 c.91 §4; 2001 c.827 §15; 2007 c.21 §5; 2007 c.70 §333]

811.608 [1987 c.187 §10; repealed by 1989 c.243 §18]

811.609 Family placards. The Department of Transportation shall issue disabled person parking permits in the form of family placards for use on vehicles that are regularly used by a family that includes more than one person with a disability. All the following apply to placards issued under this section:

(1) The department shall determine the form, size and content of the placards except that the department shall require that the expiration date of a placard be visible when the placard is displayed in the vehicle.

(2) Placards issued under this section shall be valid for a period of eight years from the date of issue. Upon expiration, placards may be renewed in a manner determined by the department by rule.

(3) The department shall not issue or renew a placard under this section unless a licensed physician certifies that the family includes at least two persons with disabilities. [1991 c.741 §4b; 1999 c.91 §5; 2001 c.827 §16; 2005 c.406 §4; 2007 c.70 §334]

811.610 [1985 c.246 §2; repealed by 1991 c.741 §7]

811.611 Foreign visitor placard. (1) The Department of Transportation may issue a disabled person parking permit in the form of a placard to a person who is visiting from a foreign country if the person presents to the department either a valid driver license or other grant of driving privileges from the foreign country or a passport or visa showing that the person is a visitor to the United States and presents one of the following:

(a) A valid disabled person parking permit issued by the country that issued the visitor's passport or visa;

(b) A certificate from an official of the agency that issues disabled person parking permits in the country that issued the visitor's passport or visa certifying that the person holds a valid disabled person parking permit; or

(c) A certificate from a licensed physician, a licensed nurse practitioner or a licensed physician assistant addressed to the Department of Transportation certifying that the applicant is a person with a disability, or a certificate from a licensed optometrist certifying that the applicant is a person with a disability because of loss of vision or substantial loss of visual acuity or visual field beyond correction.

(2) A disabled person parking permit issued under this section is valid for 30 days. [1997 c.680 §2; 1999 c.582 §17; 2001 c.827 §17; 2007 c.70 §335; 2019 c.358 §45]

811.612 Maintenance of privileges after relocation. To maintain disabled person parking privileges after relocation, a person who relocates to Oregon and who holds a disabled person parking permit from another state shall obtain an Oregon disabled person parking permit pursuant to ORS 811.602. [2001 c.367 §6]

811.613 Wheelchair User placard; rules. (1) The Department of Transportation shall issue a "Wheelchair User" disabled person parking permit in the form of a "Wheelchair User" placard or decal for use by a person who uses a wheelchair or similar low-powered motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability.

(2) The department shall determine the form, size and content of the placards or decals, except that the department shall require that the placards or decals:

(a) Include the words "Wheelchair User."

(b) Have an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.

(3) The department shall by rule determine how a person may qualify for a "Wheelchair User" placard or decal under this section.

(4) An applicant for a "Wheelchair User" placard or decal issued by the department under this section must have a driver license, a disability golf cart driver permit or an identification card issued by the department. The placard or decal shall be valid as long as the license, permit or identification card is valid and may be renewed when the license, permit or identification card is renewed.

(5) The expiration date shall be the same as the expiration date of the driver license, disability golf cart driver permit or identification card of the holder of the placard or decal. [2007 c.468 §4]

Note: 811.613 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.615 Unlawful parking in space reserved for persons with disabilities; exceptions; penalty. (1) A person commits the offense of unlawful parking in a space reserved for persons with disabilities if:

(a) The person parks a vehicle in any parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities and the vehicle does not conspicuously display a disabled person parking permit described in ORS 811.602 or 811.606 or a disabled parking permit issued by another jurisdiction;

(b) The person parks a vehicle in the aisle required by ORS 447.233 regardless of whether or not the vehicle displays a disabled person parking permit; or

(c) The person parks a vehicle in a parking space that is on private or public property and that is marked or signed "Wheelchair User Only" as described in ORS 447.233 and the vehicle does not conspicuously display a "Wheelchair User" placard or decal issued under ORS 811.613.

(2) This section does not apply to any of the following:

(a) Momentarily parking a vehicle in a parking space marked or signed for persons with disabilities for the purposes of allowing a person with a disability to enter or leave the vehicle.

(b) Any parking space that is marked or signed to provide parking for persons with disabilities and that is subject to different provisions or requirements under city or county ordinance if the different provisions or requirements are clearly posted.

(3) Unless the police officer or other authorized person issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle and the citation issued for the violation may be placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, the operator of the vehicle is in violation of this section.

(4) The penalties provided by this section shall be imposed regardless of the text or symbol displayed on the marking or sign reserving the space or aisle for persons with disabilities. The penalties are in addition to the following:

(a) A vehicle parked on private property in violation of this section is subject to removal, possession, lien and sale under ORS 98.812.

(b) A vehicle parked in violation of this section may be removed and sold as provided under ORS 811.620.

(5)(a) Except as provided in paragraph (b) of this subsection, unlawful parking in a space reserved for persons with disabilities is a Class C traffic violation.

(b) A second or subsequent conviction for unlawful parking in a space reserved for persons with disabilities is a Class A traffic violation. [1983 c.338 §680; 1985 c.16 §328; 1987 c.187 §2; 1989 c.243 §8; 1991 c.741 §11; 1993 c.195 §1; 1995 c.79 §373; 1997 c.680 §4; 2001 c.367 §1; 2007 c.70 §336; 2007 c.468 §6; 2011 c.597 §99; 2019 c.547 §3]

811.616 Oregon Wounded Warrior placard; rules. (1) The Department of Transportation shall issue an "Oregon Wounded Warrior" disabled person parking permit in the form of an "Oregon Wounded Warrior" placard or decal for use by a wounded warrior.

(2) A person is a wounded warrior who qualifies for an "Oregon Wounded Warrior" parking permit if the person:

(a) Submits written proof to the Department of Transportation of having a United States Department of Veterans Affairs total disability rating of at least 50 percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service; and

(b) Received a discharge or release under other than dishonorable conditions.

(3) The Department of Transportation shall determine the form, size and content of the placards or decals, except that the department shall require that the placards or decals:

(a) Include the words "Oregon Wounded Warrior."

(b) Have an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.

(4) The Department of Transportation shall by rule determine how a person may apply for an "Oregon Wounded Warrior" placard or decal under this section.

(5) An applicant for an "Oregon Wounded Warrior" placard or decal issued by the Department of Transportation under this section must have a driver license, a disability golf cart driver permit or an identification card issued by the department. The placard or decal shall be valid as long as the license, permit or identification card is valid and may be renewed when the license, permit or identification card is renewed.

(6) The expiration date shall be the same as the expiration date of the driver license, disability golf cart driver permit or identification card of the holder of the placard or decal. [2018 c.69 §2]

Note: 811.616 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.617 Blocking parking space reserved for persons with disabilities; penalty. (1) A person commits the offense of blocking a parking space reserved for persons with disabilities if the person:

(a) Stops or parks a vehicle in such a way as to block access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities; or

(b) Places an object or allows an object to be placed in such a manner that it blocks access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities.

(2)(a) Unless the police officer or other authorized person issuing the citation witnesses the stopping or parking of a vehicle in violation of subsection (1)(a) of this section, there is a rebuttable presumption that the vehicle was stopped or parked by the registered owner of the vehicle and a citation issued for the violation may be placed upon the vehicle. If the stopping or parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, or if the operator is in the vehicle, the operator of the vehicle is in violation of this section.

(b) Unless the police officer or other authorized person issuing the citation witnesses the blocking of a parking space in violation of subsection (1)(b) of this section, there is a rebuttable presumption that the owner or manager of the parking lot placed or allowed placement of the object blocking access to the parking space and a citation may be issued to the owner or manager of the parking lot. If a police officer or other person issuing the citation sees a person placing an object in violation of subsection (1)(b) of this section, the officer or other person may issue the citation to the person seen.

(3) For purposes of this section, a parking space includes any adjacent access aisle as described in ORS 447.233.

(4) The offense described in this section, blocking a parking space reserved for persons with disabilities, is a Class D traffic violation. [1997 c.498 §2; 2001 c.367 §2; 2007 c.70 §337; 2011 c.597 §99a]

811.620 Removal of vehicle illegally parked in space reserved for persons with disabilities. If a vehicle is illegally parked in violation of ORS 811.615, the vehicle may

be removed and, if notice required under subsection (3) of this section is given, is subject to costs for the removal and storage of the vehicle as provided under the following:

(1) The owner of private property may have the vehicle removed from the property in the manner provided for removal of vehicles under ORS 98.812.

(2) Subject to subsection (3) of this section, any state agency or political subdivision of this state may provide for the removal and storage of the vehicle and the vehicle shall be subject to the following:

(a) The state agency or political subdivision may require payment of reasonable costs for removal and storage of the vehicle before the vehicle is released.

(b) If the vehicle is not claimed and any fees required under this subsection are not paid within 30 days of the removal, a lien described under ORS 98.812 attaches to the vehicle and its contents for the reasonable costs for removal and storage of the vehicle and contents.

(3) If a vehicle is removed under subsection (2) of this section, the tower removing the vehicle shall:

(a) Notify the local law enforcement agency of the location of the vehicle within one hour after the vehicle is placed in storage; and

(b) Unless the vehicle is claimed, give notice, within 10 days after the vehicle is placed in storage, to the vehicle owner or any other person with an interest in the vehicle, as indicated by the title records. If notice under this paragraph is given by mail, it must be mailed within the 10-day period, but need not be received within that period. [1983 c.338 §433; 1985 c.16 §227; 1993 c.233 §56; 2007 c.538 §14]

811.625 Unlawful use of disabled person parking permit; penalty. (1) A person commits the offense of unlawful use of a disabled person parking permit if the person:

(a) Is not a person with a disability and is not transporting the holder of a disabled person parking permit to or from the parking location; and

(b) Uses a disabled person parking permit described under ORS 811.602 or 811.606 to exercise any privileges granted under ORS 811.635.

(2) Except as provided in subsection (3) of this section, unlawful use of a disabled person parking permit is a Class C traffic violation.

(3) A second or subsequent conviction for unlawful use of a disabled person parking permit is a Class A traffic violation. [1983 c.338 §681; 1987 c.187 §3; 1989 c.243 §9; 1991 c.741 §12; 1995 c.79 §374; 2001 c.367 §3; 2007 c.70 §338; 2011 c.597 §100]

811.627 Use of invalid disabled person parking permit; penalty. (1) A person commits the offense of use of an invalid disabled person parking permit if the person uses a permit that is not a valid permit from another jurisdiction, and that:

(a) Has been previously reported as lost or stolen;

(b) Has been altered;

(c) Was issued to a person who is deceased at the time of the citation;

(d) Has not been issued under ORS 811.602;

(e) Is a photocopy or other reproduction of a permit, regardless of the permit status; or

(f) Is mutilated or illegible.

(2) Unless the police officer or other authorized person issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle and the citation issued for the violation may be placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, the operator of the vehicle is in violation of this section.

(3) The offense described in this section, use of an invalid disabled person parking permit, is a Class A traffic violation.

(4) If the court finds that a person committed the offense described in this section, the court shall collect the permit and return it to the Department of Transportation for destruction unless the person claims the permit was lost or destroyed, or the police officer or other person authorized to issue a citation for the offense collected the permit.

(5) If the court finds that a person committed the offense described in this section by using a permit that was mutilated or illegible, the court may assess any fine it deems appropriate up to the maximum amount allowable for the offense. If the mutilated or illegible permit has been replaced by the department, the court may dismiss the citation. [2001 c.367 §7; 2011 c.597 §100a]

811.630 Misuse of program placard; penalty. (1) A person commits the offense of misuse of a program placard if the person:

(a) Is the driver of a vehicle that is being used as part of a program for the transportation of persons with disabilities; and

(b) Uses a program placard described under ORS 811.607 for any purpose other than

exercising privileges granted under ORS 811.637.

(2) Except as provided in subsection (3) of this section, misuse of a program placard is a Class C traffic violation.

(3) A second or subsequent conviction for misuse of a program placard is a Class A traffic violation. [1983 c.338 §682; 1987 c.187 §4; 1989 c.243 §10; 2001 c.367 §4; 2007 c.70 §339; 2011 c.597 §101]

811.632 Appointment of volunteers to issue citations. (1) A law enforcement agency authorized to enforce parking laws may appoint volunteers to issue citations for violations of ORS 811.615, 811.617, 811.625 and 811.630, or of ordinances dealing with parking privileges for persons with disabilities. Volunteers appointed under this subsection must be at least 21 years of age. The law enforcement agency appointing the volunteers may establish any other qualifications the agency deems desirable.

(2) Any agency appointing volunteers under this section shall provide training to the volunteers before authorizing them to issue citations.

(3) A citation issued by a volunteer appointed under this section shall have the same force and effect as a citation issued by a police officer for the same offense. [1991 c.741 §10; 1997 c.498 §3; 2007 c.70 §340]

Note: 811.632 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

811.635 Privileges granted by disabled person parking permit other than program placard. All of the following apply to the parking privileges granted to persons with disabilities under a disabled person parking permit other than a program placard described in ORS 811.607:

(1) The privileges granted under a permit may be exercised notwithstanding ORS 811.575, any authority granted under ORS 810.160 or parking restrictions imposed by any city or county and without violation thereof.

(2) Subject to the limitations under subsection (4) of this section, a "Wheelchair User" placard or decal and an "Oregon Wounded Warrior" placard or decal allows its holder, or another person while transporting its holder to or from the parking location, to exercise the following privileges:

(a) Park a motor vehicle in any public parking zone restricted as to the length of time permitted therein without incurring penalties imposed for overtime parking in such zones.

(b) Park a motor vehicle in any public parking zone with metered parking without being required to pay any parking meter fee.

(3) A city or county may allow any person who holds a disabled person parking permit to exercise the rights described in subsection (2) of this section.

(4) The privileges granted under subsection (2) of this section do not include any of the following:

(a) Parking in zones where stopping, parking or standing of all motor vehicles is prohibited.

(b) Parking in the late evening or overnight where such parking is prohibited.

(c) Parking in zones reserved for special types of motor vehicles or activities.

(d) Parking in zones where parking is permitted only for 30 minutes or less.

(e) Parking in a parking space marked or signed for "Wheelchair User Only," unless displaying a "Wheelchair User" placard or decal issued under ORS 811.613.

(5) In addition to other privileges granted under a permit, the person issued a permit, or another person while transporting the person issued the permit to or from the parking location, may use the permit to park:

(a) In a parking space that is marked or signed to provide parking for persons with disabilities without violation of ORS 811.615; or

(b) In a parking space that is marked or signed by a road authority as reserved for residents. [1983 c.338 §683; 1985 c.139 §4; 1987 c.187 §5; 1989 c.243 §11; 2007 c.70 §341; 2007 c.468 §7; 2018 c.69 §4; 2019 c.332 §1]

811.637 Privileges granted by program placards. (1) Notwithstanding ORS 811.635, a program placard described under ORS 811.607 confers only the following privileges:

(a) It authorizes the driver of a vehicle that is being used as part of the program to which the placard was issued to park the vehicle for three hours or less in any public parking zone restricted as to the length of time permitted therein without incurring penalties for overtime parking in such zones;

(b) It authorizes the driver of a vehicle that is being used as part of the program to which the placard was issued to park the vehicle for three hours or less in any public parking zone with metered parking without being required to pay any parking meter fee; and

(c) It authorizes the driver of a vehicle that is being used as part of the program to which the placard was issued to park the vehicle for three hours or less in any parking space that is marked or signed to provide

parking for persons with disabilities without violation of ORS 811.615, so long as the vehicle conspicuously displays the permit.

(2) The privileges granted under subsection (1) of this section do not include any of the following:

(a) Parking in zones where stopping, parking or standing of all motor vehicles is prohibited.

(b) Parking in the late evening or overnight where such parking is prohibited.

(c) Parking in zones reserved for special types of motor vehicles or activities.

(d) Parking in zones where parking is permitted only for 30 minutes or less. [1989 c.243 §13; 1999 c.779 §1; 2007 c.70 §342]

811.640 [1983 c.338 §684(2); 1985 c.16 §329(2); 1985 c.139 §5(2); 1987 c.187 §11; 1989 c.243 §14; 1991 c.741 §5; 1995 c.462 §3; 1997 c.680 §3; 1999 c.91 §6; repealed by 2001 c.827 §18]

ACCIDENTS

(Duties)

811.700 Failure to perform duties of driver when property is damaged; penalty. (1) A driver of a vehicle who knows or has reason to believe that the driver's vehicle was involved in a collision commits the offense of failure to perform the duties of a driver when property is damaged if the driver's vehicle is involved in a collision that results in damage to property and the driver does not perform duties required under any of the following:

(a) Immediately stop the driver's vehicle at the scene of the collision or as close to the scene of the collision as possible and reasonably investigate what the driver's vehicle struck. Every stop required under this paragraph should be made without obstructing traffic more than is necessary.

(b) If the driver's vehicle has been involved in a collision that results only in damage to a vehicle that is driven or attended by any other person, the driver shall perform all of the following duties:

(A) Remain at the scene of the collision until the driver has fulfilled all of the requirements under this paragraph.

(B) Give to the other driver or passenger:

(i) The driver's name and address, the name and address of the owner of the driver's vehicle and the name and address of any other occupants of the driver's vehicle; and

(ii) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.

(C) Upon request and if available, exhibit and give to the occupant of or person attending any vehicle damaged the number of any document issued as evidence of driving privileges granted to the driver.

(c) If the driver's vehicle has been involved in a collision resulting in damage to any vehicle that is unattended, the driver shall perform all the following duties:

(A) Locate the operator or owner of the unattended vehicle and notify the operator or owner of:

(i) The driver's name and address and the name and address of the owner of the vehicle that struck the unattended vehicle; and

(ii) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier; or

(B) Leave in a conspicuous place in the unattended vehicle a written notice giving:

(i) The driver's name and address and the name and address of the owner of the vehicle that struck the unattended vehicle and a statement of the circumstances of the collision; and

(ii) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.

(d) If the driver's vehicle has been involved in a collision resulting only in damage to fixtures or property legally upon or adjacent to a highway, the driver shall perform all of the following duties:

(A) Take reasonable steps to notify the owner or person in charge of the property of the collision and of the driver's name and address, the vehicle owner's name and address and, if the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.

(B) Upon request and if available, exhibit any document issued as evidence of driving privileges granted to the driver.

(e) If the driver discovers only after leaving the scene of the collision that the driver's vehicle may have been involved in a collision that resulted in damage to another

vehicle, fixture or property, the driver shall as soon as reasonably possible make a good faith effort to comply with the requirements of this subsection.

(2) As used in this section, "reason to believe" means that the driver is aware of a circumstance that would cause a reasonable person to be aware of a substantial and unjustifiable risk that the driver's vehicle has been in a collision. The risk must be of such nature or degree that failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(3) The offense described in this section, failure to perform the duties of a driver when property is damaged, is a Class A misdemeanor and is applicable on any premises open to the public. [1983 c.338 §572; 2017 c.75 §1; 2018 c.22 §1]

811.705 Failure to perform duties of driver to injured persons; penalty. (1) A driver of a vehicle who knows or has reason to believe that the driver's vehicle was involved in a collision commits the offense of failure to perform the duties of a driver to injured persons if the driver's vehicle has been in a collision that results in injury or death to a person and the driver does not perform all of the following duties:

(a) Immediately stop the driver's vehicle at the scene of the collision or as close to the scene of the collision as possible and reasonably investigate what the driver's vehicle struck. Every stop required under this paragraph should be made without obstructing traffic more than is necessary.

(b) Remain at the scene of the collision until the driver has fulfilled all of the requirements under this subsection.

(c) Give to the other driver or a surviving passenger or any person not a passenger who is injured as a result of the collision:

(A) The driver's name and address, the name and address of the owner of the driver's vehicle and the name and address of any other occupants of the driver's vehicle; and

(B) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.

(d) Upon request and if available, exhibit and give to the persons injured and to the occupant of or person attending any vehicle damaged the number of any document issued as official evidence of driving privileges granted to the driver.

(e) Render to any person injured in the collision reasonable assistance, including the conveying, or the making of arrangements for the conveying, of an injured person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such conveying is requested by any injured person.

(f) Remain at the scene of a collision until a police officer has arrived and has received the required information, if all persons required to be given information under paragraph (c) of this subsection are killed in the collision or are unconscious or otherwise incapable of receiving the information. The requirement of this paragraph to remain at the scene of a collision until a police officer arrives does not apply to a driver who needs immediate medical care, who needs to leave the scene in order to secure medical care for another person injured in the collision or who needs to leave the scene in order to report the collision to the authorities, as long as the driver who leaves takes reasonable steps to return to the scene or to contact the nearest police officer.

(g) If the driver discovers only after leaving the scene of the collision that the driver's vehicle may have been involved in a collision that resulted in injury or death to any person, shall as soon as reasonably possible make a good faith effort to comply with the requirements of this subsection. The driver shall immediately contact 9-1-1 and provide to the dispatcher any requested information described in paragraph (c) of this subsection and the location and approximate time of the collision.

(2) As used in this section, "reason to believe" means that the driver is aware of a circumstance that would cause a reasonable person to be aware of a substantial and unjustifiable risk that the driver's vehicle has been in a collision. The risk must be of such nature or degree that failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(3)(a) Except as otherwise provided in paragraph (b) of this subsection, the offense described in this section, failure to perform the duties of a driver to injured persons, is a Class C felony and is applicable on any premises open to the public.

(b) Failure to perform the duties of a driver to injured persons is a Class B felony if a person suffers serious physical injury as defined in ORS 161.015 or dies as a result of the collision. [1983 c.338 §573; 1993 c.621 §1; 2001 c.919 §1; 2017 c.75 §2; 2018 c.22 §2]

811.706 Money damages resulting from violation of ORS 811.700 or 811.705. When a person is convicted of violating ORS 811.700 or 811.705, the court, in addition to any other sentence it may impose, may order the person to pay an amount of money equal to the amount of any damages caused by the person as a result of the incident that created the duties in ORS 811.700 or 811.705. [1995 c.782 §2]

Note: 811.706 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

811.707 Crime classification for violation of ORS 811.705. The Oregon Criminal Justice Commission shall classify the crime of failure to perform the duties of a driver to injured persons as crime category 8 of the sentencing guidelines grid of the commission if a person suffers serious physical injury as defined in ORS 161.015 or dies as a result of the collision that forms the basis of the conviction. [2001 c.919 §2; 2018 c.22 §3]

Note: 811.707 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

811.710 Failure to perform duties of driver when animal is injured; penalty. (1) A driver of a vehicle who knows or has reason to believe that the driver's vehicle was involved in a collision commits the offense of failure to perform the duties of a driver when an animal is injured if the driver's vehicle injures or kills a domestic animal and the driver does not perform all of the following duties:

(a) Immediately stop the driver's vehicle at the scene of the collision or as close to the scene of the collision as possible and reasonably investigate what the driver's vehicle struck. Every stop required under this paragraph should be made without obstructing traffic more than is necessary.

(b) Make a reasonable effort to determine the nature of the animal's injuries.

(c) Give reasonable attention to the animal.

(d) Immediately report the injury to the animal's owner.

(e) If unable to contact the owner of the animal, notify a police officer.

(f) If the driver discovers only after leaving the scene of the collision that the driver's vehicle may have been involved in a collision that injured or killed a domestic animal, the driver shall as soon as reasonably possible make a good faith effort to comply with the requirements of this section.

(2) The requirements under this section for a driver to stop and attend an injured animal depend on the traffic hazards then existing.

(3) As used in this section, "reason to believe" means that the driver is aware of a circumstance that would cause a reasonable person to be aware of a substantial and unjustifiable risk that the driver's vehicle has been in a collision. The risk must be of such nature or degree that failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(4) The offense described in this section, failure to perform the duties of a driver when an animal is injured, is a Class B traffic violation. [1983 c.338 §574; 2018 c.22 §4]

811.715 Failure to perform duties of witness to accident; penalty. (1) A person commits the offense of failure to perform the duties of a witness to an accident if the person:

(a) Witnesses an accident that results in injury or death to any person or causes damage to a vehicle that is driven or attended by any person; and

(b) Does not furnish to the driver or occupant of such vehicles or injured person, the true name and address of the witness.

(2) The offense described in this section, failure to perform the duties of a witness to an accident, is a Class B traffic violation. [1983 c.338 §575]

811.717 Failure to remove motor vehicle from roadway; penalty. (1) The driver of a motor vehicle commits the offense of failure to remove a motor vehicle from the roadway if, after an accident:

(a) A person has not suffered any apparent personal injury as a result of the accident;

(b) The motor vehicle is operable and does not require towing;

(c) It is safe to drive the motor vehicle to a location off of the roadway as close to the accident scene as possible; and

(d) The driver does not move the motor vehicle to a location off of the roadway as close to the accident scene as possible.

(2) The offense described in this section, failure to remove a motor vehicle from the roadway, is a Class C traffic violation. [2007 c.664 §4; 2008 c.10 §3]

Note: 811.717 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

(Reports)

811.720 When accident must be reported to Department of Transportation. (1) Except as provided in subsection (4) of this section, any accident occurring on a highway or upon premises open to the public resulting in injury or death to any person is subject to the reporting requirements under the following sections:

(a) The reporting requirements for drivers under ORS 811.725.

(b) The reporting requirements for occupants of vehicles in accidents under ORS 811.735.

(c) The reporting requirements for owners of vehicles under ORS 811.730.

(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or upon premises open to the public resulting in damage to the property of any person in excess of $2,500 is subject to the following reporting requirements:

(a) The driver of a vehicle that has more than $2,500 damage must report the accident in the manner specified under ORS 811.725.

(b) The owner of a vehicle that has more than $2,500 damage must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

(c) If the property damage is to property other than a vehicle involved in the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

(d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed from the scene of the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

(3) The dollar amount specified in subsection (2) of this section may be increased every five years by the Department of Transportation based upon any increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest $100.

(4) The following are exempt from the reporting requirements of this section:

(a) Operators of snowmobiles, Class I all-terrain vehicles or Class III all-terrain vehicles.

(b) A law enforcement official acting in the course of official duty if the accident involved a law enforcement official performing a lawful intervention technique or a law enforcement official and a person acting during the commission of a criminal offense. As used in this paragraph:

(A) "Law enforcement official" means a person who is responsible for enforcing the criminal laws of this state or a political subdivision of this state and who is employed or volunteers:

(i) As a peace officer commissioned by a city, university that has established a police department under ORS 352.121 or 353.125, port, school district, mass transit district, county or county service district authorized to provide law enforcement services under ORS 451.010;

(ii) With the Department of State Police or the Criminal Justice Division of the Department of Justice;

(iii) As an investigator of a district attorney's office, if the investigator is certified as a peace officer in this state; or

(iv) As an authorized tribal police officer as defined in ORS 181A.680.

(B) "Lawful intervention technique" means a method by which one motor vehicle causes, or attempts to cause, another motor vehicle to stop. [1983 c.338 §576; 1987 c.258 §11; 1993 c.614 §1; 1997 c.279 §1; 2001 c.827 §7; 2003 c.531 §1; 2005 c.405 §1; 2011 c.506 §49; 2011 c.644 §§34,56; 2013 c.180 §§54,55; 2015 c.174 §24; 2017 c.189 §1; 2019 c.57 §36]

811.725 Driver failure to report accident to Department of Transportation; penalty. (1) The driver of a vehicle commits the offense of driver failure to report an accident if the driver does any of the following:

(a) Is driving any vehicle that is involved in an accident required to be reported under ORS 811.720 and does not, within 72 hours of the accident, complete a report of the accident in a form approved by the Department of Transportation and submit the report to the department.

(b) Is driving a vehicle that is involved in an accident and does not submit to the department any report required by the department that is other than or in addition to the reports required by this section. The department may request a supplemental report if in the opinion of the department the original report is insufficient.

(c) Is driving any vehicle that is involved in an accident required to be reported under

ORS 811.720 and does not, within 72 hours of the accident, provide proof of compliance with financial responsibility requirements to the department, in a form furnished by the department, that at the time of the accident the person was in compliance with the financial responsibility requirements.

(2) The proof of compliance with financial responsibility required under this section is subject to the prohibitions and penalties for false certification under ORS 806.050.

(3) The reports described under this section are subject to the provisions of ORS 802.220 and 802.240 relating to the use of such reports after submission. Exemptions from requirements to provide proof of compliance with financial responsibility are established under ORS 806.020.

(4) A driver may be required to file additional accident reports with a city as provided under ORS 801.040.

(5) The offense described in this section, driver failure to report an accident, is a Class B traffic violation. [1983 c.338 §577; 1985 c.393 §36; 1993 c.751 §67; 2005 c.195 §1; 2019 c.312 §13]

811.730 Owner failure to report accident to Department of Transportation; penalty. (1) The owner of a vehicle commits the offense of owner failure to report an accident if the owner does any of the following:

(a) If the person owns a vehicle that is involved in an accident that is required to be reported under ORS 811.720 and all of the following apply:

(A) The accident occurred while the vehicle was driven by someone other than the owner of the vehicle.

(B) The driver of the vehicle does not make an accident report as required under ORS 811.725.

(C) The owner of the vehicle fails to report the accident to the Department of Transportation in a form specified by the department as soon as the owner learns of the accident.

(b) If the person is the owner of a vehicle involved in an accident and the person does not make any additional reports the department may require.

(2) The offense described in this section, owner failure to report an accident, is a Class B traffic violation. [1983 c.338 §578; 1985 c.393 §37; 1993 c.751 §68]

811.735 Failure of vehicle occupant to make accident report to Department of Transportation; penalty. (1) A person commits the offense of failure of a vehicle occupant to make an accident report if:

(a) The person is an occupant, other than the driver, of a vehicle at a time when the vehicle is involved in an accident required to be reported under ORS 811.720;

(b) The driver of the vehicle is physically incapable of making an accident report required under ORS 811.725; and

(c) The occupant does not make the accident report or cause the accident report to be made.

(2) This section does not require an occupant of a vehicle who is not a driver to provide proof of compliance with financial responsibility requirements.

(3) The offense described in this section, failure of a vehicle occupant to make an accident report, is a Class B traffic violation. [1983 c.338 §579; 2019 c.312 §14]

811.740 False accident report; penalty. (1) A person commits the offense of giving a false accident report if the person gives information in any report required under ORS 811.725 or 811.730, knowing or having reason to believe that such information is false.

(2) The offense described in this section, giving a false accident report, is a Class B misdemeanor. [1983 c.338 §581; 1985 c.393 §38]

811.745 When accident must be reported to police officer or law enforcement agency. (1) Except as provided in subsection (4) of this section, any accident occurring on a highway or upon premises open to the public resulting in injury or death to any person is subject to the reporting requirements under the following sections:

(a) The reporting requirements for drivers under ORS 811.748.

(b) The reporting requirements for occupants of vehicles in accidents under ORS 811.750.

(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or upon premises open to the public resulting in damage to the property of any person in excess of $2,500 is subject to the following reporting requirements:

(a) The driver of a vehicle that has more than $2,500 damage must report the accident in the manner specified under ORS 811.748.

(b) If the property damage is to property other than a vehicle involved in the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(c) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed from the scene of the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(3) The dollar amount specified in subsection (2) of this section may be increased every five years by the Department of Transportation based upon any increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest $100.

(4) The following are exempt from the reporting requirements of this section:

(a) Operators of snowmobiles and Class I, Class III and Class IV all-terrain vehicles.

(b) A law enforcement official acting in the course of official duty if the accident involved a law enforcement official performing a lawful intervention technique or involved a law enforcement official and a person acting during the commission of a criminal offense. As used in this paragraph:

(A) "Law enforcement official" means a person who is responsible for enforcing the criminal laws of this state or a political subdivision of this state and who is employed or volunteers:

(i) As a peace officer commissioned by a city, port, university that has established a police department under ORS 352.121 or 353.125, school district, mass transit district, county or service district authorized to provide law enforcement services under ORS 451.010;

(ii) With the Department of State Police or the Criminal Justice Division of the Department of Justice; or

(iii) As an investigator of a district attorney's office, if the investigator is certified as a peace officer in this state.

(B) "Lawful intervention technique" means a method by which one motor vehicle causes, or attempts to cause, another motor vehicle to stop.

(5) The reporting requirements under this section are in addition to, and not in lieu of, the reporting requirements under ORS 811.720. [2009 c.490 §2; 2011 c.360 §18; 2011 c.506 §50; 2013 c.180 §56; 2017 c.189 §2; 2019 c.57 §37]

Note: 811.745 to 811.750 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

811.747 Definitions for ORS 811.748 and 811.750. As used in ORS 811.748 and 811.750:

(1) "Emergency communications system" has the meaning given that term in ORS 403.105.

(2) "Law enforcement agency" means any agency that employs members of the Oregon State Police, a sheriff, a deputy sheriff, a city police officer, a police officer commissioned by a university under ORS 352.121 or 353.125 or a law enforcement officer employed by a service district established under ORS 451.410 to 451.610 for the purpose of law enforcement services. [2009 c.490 §3; 2011 c.506 §51; 2013 c.180 §57; 2015 c.247 §38]

Note: See note under 811.745.

811.748 Driver failure to report accident to police officer or law enforcement agency; penalty. (1) The driver of a vehicle commits the offense of driver failure to report an accident if the driver is driving any vehicle that is involved in an accident required to be reported under ORS 811.745 and the driver, if physically capable, does not give notice of the accident immediately to a police officer or a law enforcement agency by the quickest means available.

(2) Notwithstanding subsection (1) of this section, a driver does not commit the offense of driver failure to report an accident if:

(a) The accident required to be reported under ORS 811.745 results in a serious injury or death; and

(b) The driver gives notice of the accident immediately to the emergency communications system by the quickest means available.

(3) The offense described in this section, driver failure to report an accident, is a Class A traffic violation. [2009 c.490 §4; 2015 c.247 §39]

Note: See note under 811.745.

811.750 Failure of vehicle occupant to make accident report to police officer or law enforcement agency; penalty. (1) A person commits the offense of failure of a vehicle occupant to make an accident report if:

(a) The person is an occupant, other than the driver, of a vehicle at a time when the vehicle is involved in an accident required to be reported to a police officer or a law enforcement agency under ORS 811.745;

(b) The driver of the vehicle is physically incapable of giving notice to a police officer or a law enforcement agency as required under ORS 811.748; and

(c) The occupant does not give notice of the accident immediately to a police officer or a law enforcement agency by the quickest means available.

(2) Notwithstanding subsection (1) of this section, a person does not commit the offense

of failure of a vehicle occupant to make an accident report if:

(a) The accident required to be reported under ORS 811.745 results in a serious injury or death; and

(b) The person gives notice of the accident immediately to the emergency communications system by the quickest means available.

(3) The offense described in this section, failure of a vehicle occupant to make an accident report, is a Class A traffic violation. [2009 c.490 §5; 2015 c.247 §40]

Note: See note under 811.745.

FUNERAL PROCESSIONS

811.800 Operation of funeral vehicles with improper lights; penalty. (1) A person commits the offense of operation of a funeral escort vehicle or a funeral lead vehicle with improper lights if the person:

(a) Fails to equip the funeral escort vehicle or funeral lead vehicle with at least one "fire company warning light" as provided for under ORS 816.350 and described under ORS 816.285; or

(b) Uses the "fire company warning light" at any time except during a funeral procession.

(2) No ordinance or other regulation shall prohibit the use of warning lights on a funeral escort vehicle or funeral lead vehicle while driving in a funeral procession.

(3) The offense described in this section, operation of a funeral escort vehicle or funeral lead vehicle with improper lights, is a Class D traffic violation. [1991 c.482 §6; 1993 c.18 §170; 1995 c.383 §1]

811.802 Failure to yield right of way to funeral procession; penalty. (1) A person commits the offense of failure to yield the right of way to a funeral procession if the funeral procession is accompanied by a funeral escort vehicle or a funeral lead vehicle and the person does not do the following:

(a) Yield the right of way to the funeral procession.

(b) Stop before entering any intersection and remain stopped until the funeral procession has passed.

(c) Obey any directions given by a driver of a funeral escort vehicle.

(2) Except as otherwise provided in subsection (3) of this section and except for emergency vehicles and police vehicles or at the direction of a police officer, this section applies to pedestrians, bicyclists, motor vehicle drivers and anyone else in the path of a funeral procession.

(3) This section applies only to persons who knew or in the exercise of reasonable care should have known of the presence of a funeral procession.

(4) The offense described in this section, failure to yield the right of way to a funeral procession, is a Class D traffic violation. [1991 c.482 §7; 1995 c.383 §2]

811.804 Intersection rules for funeral processions. (1) While exercising due caution regarding the safety of others, notwithstanding any traffic control device, right of way provisions or other provisions of the Oregon Vehicle Code, if the funeral escort vehicle or funeral lead vehicle lawfully enters an intersection, the following procession may enter the intersection without stopping.

(2) Notwithstanding subsection (1) of this section, the vehicles in the funeral procession shall yield the right of way:

(a) To an emergency vehicle giving an audible or visible signal; or

(b) If directed by a police officer to do so. [1991 c.482 §8]

811.806 Exceeding maximum speed for funeral procession; penalty. (1) Notwithstanding any other provision of law, a person commits the offense of exceeding the maximum speed for a funeral procession if:

(a) The person is driving in a funeral procession on a highway with a speed limit of less than 50 miles per hour and the person drives at a speed that exceeds five miles per hour less than the speed limit; or

(b) The person is driving in a funeral procession on a highway with a speed limit greater than 50 miles per hour and the person drives at a speed that exceeds 45 miles per hour.

(2) The offense described in this section, exceeding the maximum speed for a funeral procession, is a Class D traffic violation. [1991 c.482 §12; 1995 c.383 §3]

811.808 Exemption from speed limits for funeral escort vehicle. Notwithstanding ORS 811.111 or 811.295, while overtaking the funeral procession in order to direct traffic at the next intersection, the funeral escort vehicle may exceed the posted speed limit by 10 miles per hour and may cross the center line of a roadway that is divided into two or more lanes. [1991 c.482 §9; 2003 c.14 §494; 2003 c.819 §10]

811.810 Disrupting funeral procession; penalty. (1) A person commits the offense of disrupting a funeral procession if:

(a) The person is driving a vehicle that is not a member of the funeral procession and the person drives between the vehicles in a funeral procession; or

(b) The person is driving a vehicle that is not a member of the funeral procession and the person joins the funeral procession in order to be exempt from any rule of the road.

(2) This section does not apply to any emergency vehicle or police vehicle while that vehicle is performing emergency or police duties.

(3) The offense described in this section, disrupting a funeral procession, is a Class D traffic violation. [1991 c.482 §10; 1995 c.383 §4]

811.812 Free passage for funeral procession vehicles. Any person or vehicle participating in a funeral procession shall be allowed to pass free through all tollgates, tunnels, toll bridges and ferries. [1991 c.482 §11]

CHAPTER 812

[Reserved for expansion]

Chapter 813

2019 EDITION

Driving Under the Influence of Intoxicants

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GENERAL PROVISIONS

813.010 Driving under the influence of intoxicants; penalty. (1) A person commits the offense of driving while under the influence of intoxicants if the person drives a vehicle while the person:

(a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

(b) Is under the influence of intoxicating liquor, cannabis, a controlled substance or an inhalant; or

(c) Is under the influence of any combination of intoxicating liquor, cannabis, a controlled substance and an inhalant.

(2) A person may not be convicted of driving while under the influence of intoxicants on the basis of being under the influence of a controlled substance or an inhalant unless the fact that the person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory instrument and is either proved at trial or is admitted by the person through a guilty plea.

(3) A person convicted of the offense described in this section is subject to ORS 813.020 in addition to this section.

(4) Except as provided in subsection (5) of this section, the offense described in this section, driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon any premises open to the public.

(5)(a) Driving while under the influence of intoxicants is a Class C felony if the current offense was committed in a motor vehicle and the person has, at least three times in the 10 years prior to the date of the current offense, been convicted of, or been found to be within the jurisdiction of the juvenile court for an act that if committed by an adult would be, any of the following offenses in any combination:

(A) Driving while under the influence of intoxicants in violation of:

(i) This section; or

(ii) The statutory counterpart to this section in another jurisdiction.

(B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving or operation of a vehicle, an aircraft or a boat due to the use of intoxicating liquor, cannabis, a controlled substance, an inhalant or any combination thereof.

(C) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(b) For the purposes of paragraph (a) of this subsection, a conviction or adjudication for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction or adjudication.

(6) In addition to any other sentence that may be imposed, the court shall impose one or more of the following fines on a person convicted of driving while under the influence of intoxicants as follows:

(a) For a person's first conviction, a minimum of $1,000.

(b) For a person's second conviction, a minimum of $1,500.

(c) For a person's third or subsequent conviction, a minimum of $2,000 if the person is not sentenced to a term of imprisonment.

(d) For a person who drives a vehicle while the person has 0.15 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150, a minimum of $2,000.

(7) Notwithstanding ORS 161.635, $10,000 is the maximum fine that a court may impose on a person convicted of driving while under the influence of intoxicants if:

(a) The current offense was committed in a motor vehicle; and

(b) There was a passenger in the motor vehicle who was under 18 years of age and was at least three years younger than the person driving the motor vehicle. [1983 c.338 §587; 1985 c.16 §293; 1987 c.138 §5; 1991 c.835 §7; 1999 c.619 §3; 1999 c.1049 §1; 2003 c.14 §495; 2003 c.445 §1; 2007 c.879 §3; 2009 c.525 §1; 2009 c.613 §1; 2017 c.21 §80]

813.011 Felony driving under the influence of intoxicants; penalty. (1) Driving under the influence of intoxicants under ORS 813.010 shall be a Class C felony if the defendant has been convicted of driving under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction, at least two times in the 10 years prior to the date of the current offense.

(2) Once a person has been sentenced for a Class C felony under this section, the 10-year time limitation is eliminated and any subsequent episode of driving under the influence of intoxicants shall be a Class C felony regardless of the amount of time which intervenes.

(3) Upon conviction for a Class C felony under this section, the person shall be sentenced to a mandatory minimum term of incarceration of 90 days, without reduction for any reason. [2011 c.1 §3; 2011 c.598 §2]

Note: 813.011 was enacted into law but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by law. See Preface to Oregon Revised Statutes for further explanation.

813.012 Crime classification for purposes of rules of Oregon Criminal Justice Commission. (1) The Oregon Criminal Justice Commission shall classify felony driving while under the influence of intoxicants that is committed under the circumstances described in ORS 813.010 (5) as crime category 6 of the rules of the Oregon Criminal Justice Commission.

(2) In determining criminal history for a person convicted of a felony that has operation of a motor vehicle as an element, or of a felony that involved death, injury or property damage caused by the use of a motor vehicle, the commission shall:

(a) Consider two prior convictions of misdemeanor driving while under the influence of intoxicants to be equivalent to one conviction of felony driving while under the influence of intoxicants; and

(b) Consider felony driving while under the influence of intoxicants to be a person felony and consider misdemeanor driving while under the influence of intoxicants to be a person Class A misdemeanor. [1999 c.1049 §3; 2011 c.598 §1]

813.017 Arraignment; booking. When a person is arraigned on a charge of driving while under the influence of intoxicants in violation of ORS 813.010, a court shall ensure that the defendant submits to booking, if the person has not already been booked on that charge. [2015 c.145 §2]

813.020 Fee to be paid on conviction; screening and treatment; mandatory imprisonment or community service; attendance at victim impact treatment session; session fee. When a person is convicted of driving while under the influence of intoxicants in violation of ORS 813.010, a court shall comply with the following in addition to any fine or other penalty imposed upon the person under ORS 813.010:

(1) The court shall require the person to:

(a) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 813.010;

(b) Complete a screening interview and a treatment program as provided in ORS 813.021; and

(c) Submit to booking, if the person has not already been booked.

(2) The court must impose and not suspend execution of a sentence requiring the person either to serve at least 48 hours' imprisonment, which shall be served consecutively unless justice requires otherwise, or to perform community service for times specified by the court under ORS 137.129. For purposes of this subsection:

(a) A court may provide for the imprisonment to be served in jail, minimum security facilities or inpatient rehabilitation or treatment centers.

(b) Whenever the judge provides for the mandatory imprisonment to be served other than consecutively, the judgment must specifically so provide and the judge must state the reasons in writing.

(3) In a county that has a victim impact program a court may require the person to attend a victim impact treatment session. If the court requires attendance under this section, the court may require the defendant to pay a reasonable fee to the victim impact program to offset the cost of the defendant's participation. The fee shall be established for each county by the victim impact panel coordinator and steering committee of that county and shall be not less than $5 or more than $50. [1983 c.338 §588; 1985 c.16 §294 and former 487.549; 1989 c.576 §5; 1991 c.557 §3; 1993 c.13 §4; 1993 c.468 §1; 1999 c.126 §1; 2003 c.14 §496; 2015 c.145 §4]

813.021 Requirements for screening interview and treatment program. (1) When a court, in accordance with ORS 813.020, requires a person to complete a screening interview and a treatment program, the court shall require the person to do all of the following:

(a) Complete a screening interview for the purpose of determining appropriate placement of the person in a program for treatment for alcoholism, drug dependency or dependency on inhalants.

(b) Pay directly to the agency or organization conducting the screening interview a fee of $150.

(c) Complete the treatment program to which the person is referred.

(d) Pay for the treatment program to which the person is referred.

(2) The screening interview required by this section shall be conducted by an agency or organization designated by the court. The designated agency or organization must meet the standards set by the Director of the Oregon Health Authority to conduct the screening interviews. Wherever possible a court shall designate agencies or organizations to perform the screening interview that are separate from those that may be designated to carry out a treatment program.

(3) An agency or organization doing a screening interview under this section may not refer a person to a treatment program that has not been approved by the Director of the Oregon Health Authority.

(4) The agency or organization conducting a screening interview under this section shall monitor the progress of the person referred to the agency or organization. The agency or organization shall make a report to the referring court stating the person's successful completion or failure to complete all or any part of the screening interview or of the treatment program to which the person was referred by the agency or organization performing the screening interview. The report shall be in a form determined by agreement between the court and the agency or organization providing the screening interview. [1999 c.126 §3; 1999 c.619 §8a; 2005 c.303 §1; 2009 c.595 §1140; 2015 c.318 §47]

Note: 813.021 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

813.022 Proof of treatment. (1) A person who has been convicted of driving while under the influence of intoxicants under ORS 813.010 shall provide proof to the Department of Transportation that the person completed a treatment program to which the person was referred under ORS 813.021.

(2) The department may not reinstate a person's driving privileges unless:

(a) The person has provided proof of completing a treatment program as required under subsection (1) of this section;

(b) The person has an order from the circuit court of the county in which the person was convicted that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program; or

(c) Fifteen years have elapsed since the date of the person's conviction for driving while under the influence of intoxicants.

(3)(a) If the person is unable to provide proof of completing a treatment program as required under subsection (1) of this section, the person may file a motion with the circuit court of the county in which the person was convicted to show proof that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program. The person shall provide a copy of the motion and any supporting documentation to the district attorney of the county. The district attorney may file, within 45 days from the date the person files the motion with the court, an objection to the motion.

(b) If the district attorney does not file an objection to the motion, the court shall, without hearing, enter an order that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program or, on its own motion, conduct a hearing as described in subsection (4) of this section.

(c) Upon timely receipt of an objection from the district attorney, the court shall conduct a hearing.

(4) At a hearing under subsection (3) of this section, the court shall determine whether, considering the totality of the circumstances, the person has taken sufficient steps such that in the court's view the person has satisfied the requirement under ORS 813.021 to complete a treatment program.

(5) If the court determines that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program, the court shall enter an order that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program.

(6) When the court enters an order under this section, the court shall provide a copy of the order to the district attorney.

(7) A court may not enter an order that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program if the person has not started a treatment program. [2012 c.9 §2; 2013 c.233 §1]

Note: 813.022 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

813.023 Alternative payment methods for screening interview or treatment program. A person required to pay for a screening interview or treatment program under ORS 813.021, 813.200, 813.210 or 813.240 who is eligible for the state medical assistance program or is enrolled in a health benefit plan, as defined in ORS 743B.005, may utilize the state medical assistance program or health benefit plan as a third party payer for the costs of medically necessary chemical dependency services that are covered under the state medical assistance program or health benefit plan. The person remains responsible for the costs of the screening interview or treatment program, regardless of the amount of coverage or the failure of the third party payer to reimburse all of the costs. [2011 c.468 §1; 2013 c.375 §2; 2015 c.318 §48]

Note: 813.023 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

813.025 Designation of agency to perform screening interview and treatment program; qualifications; rules. A court may designate a single agency or organization to perform the screening interviews and treatment programs described in ORS 813.021 and 813.260 (1) when the Director of the Oregon Health Authority certifies that:

(1) An agency or organization may accept such designations due to the lack of alternative agencies or organizations in the service area; or

(2) An agency or organization has applied to and been authorized by the Oregon Health Authority to operate a demonstration project that combines screening interviews and treatment programs. The authority shall by rule set forth the conditions under which a demonstration project may be authorized. [1991 c.557 §2; 1999 c.126 §4; 2009 c.595 §1141; 2015 c.318 §49]

813.030 Amount of fee; distribution. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of $255, except that the court may waive all or part of the fee in cases involving indigent defendants. The court may make provision for payment of the fee on an installment basis. A circuit court shall deposit the fee in the Criminal Fine Account. If the fee is collected in a municipal or justice court, the fee shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine Account. [1985 c.16 §296; 1987 c.905 §29; 1989 c.576 §§6a,7a; 1989 c.635 §§1,3; 1991 c.557 §4; 1993 c.13 §5; 1999 c.646 §3; 2009 c.595 §1142; 2011 c.597 §§147,324; 2011 c.671 §3; 2012 c.81 §§2,3]

813.040 Standards for determination of problem condition involving alcohol, inhalants or controlled substances. This section establishes, for purposes of ORS 471.432 and 807.060, when a person has a problem condition involving alcohol, cannabis, controlled substances or inhalants. For purposes of ORS 471.432 and 807.060, a person has a problem condition involving alcohol, cannabis, controlled substances or inhalants if it is determined that the person has a problem condition in which the person's health or that of others is substantially impaired or endangered or the person's social or economic function is substantially disrupted because of the person's:

(1) Habitual or periodic use of:

(a) Alcoholic beverages; or

(b) Cannabis, unless the person holds a registry identification card as defined in ORS 475B.791; or

(2) Use of or loss of the ability to control the use of controlled substances, inhalants or other substances with abuse potential, including a condition that may have developed:

(a) A physical dependence in which the body requires a continuing supply of a controlled substance, an inhalant or a drug to avoid characteristic withdrawal symptoms; or

(b) A psychological dependence characterized by an overwhelming mental desire for continued use of a controlled substance, an inhalant or a drug. [1983 c.338 §589; 1999 c.126 §5; 1999 c.619 §9; 1999 c.646 §4; 2017 c.21 §81; 2018 c.76 §14]

813.050 Out-of-service orders for operators of commercial motor vehicles; grounds; duration; rules; penalty. (1) A police officer or a person authorized by the Department of Transportation to perform vehicle safety inspections shall issue an out-of-service order to the operator of a commercial motor vehicle if any of the following applies:

(a) The person has reasonable grounds to believe that the operator has consumed alcohol or other intoxicating beverage within four hours prior to the time the operator began operating the vehicle or at any time while operating the vehicle. As used in this paragraph, "reasonable grounds" includes, but is not limited to, smelling alcohol on the breath or person of the operator.

(b) A chemical test of the operator's breath discloses any amount of alcohol in the blood of the operator.

(c) The operator possesses an intoxicating beverage while operating the vehicle. This subsection does not apply to possession of an intoxicating beverage that is manifested and transported as part of a shipment.

(2) An out-of-service order issued under this section shall become effective upon its issuance and shall remain in effect for 24 hours.

(3) The Department of Transportation shall adopt rules requiring that any driver issued an out-of-service order under this section be required to report the order to the department and to the driver's employer. Rules adopted under this section may include, but need not be limited to, rules specifying the times within which reports must be made and the contents of the reports.

(4) Violation of an out-of-service order issued under this section is a Class A misdemeanor. [1991 c.185 §14; 1993 c.400 §1]

813.052 [1993 c.400 §4; 2003 c.402 §39; 2007 c.122 §4; repealed by 2009 c.395 §15]

813.055 Civil penalty for violation of out-of-service order or notice. (1) The Department of Transportation shall impose a civil penalty on the operator of a commercial motor vehicle if:

(a) The operator has violated an out-of-service order issued under ORS 813.050 or any other out-of-service order or notice is-

sued by the department or an authorized representative of the department; or

(b) The department receives notification that a person has violated any out-of-service order or notice issued by a state or federal agency.

(2) For the purposes of this section, "notification" may include, but is not limited to, a record of conviction or a record of a determination by a state or federal agency with jurisdiction to determine that the operator has violated an out-of-service order or notice.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745 and may not be reduced. The civil penalties are:

(a) $2,500 for the first violation of an out-of-service order or notice.

(b) $5,000 for a second or subsequent violation of an out-of-service order or notice. [2009 c.395 §14]

Note: 813.055 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

IMPLIED CONSENT

813.095 Offense of refusal to take a test for intoxicants; penalty. (1) A person commits the offense of refusal to take a test for intoxicants if the person refuses to:

(a) Take a breath test when requested to do so in accordance with the provisions of ORS 813.100; or

(b) Take a urine test when requested to do so in accordance with the provisions of ORS 813.131 and 813.132.

(2) The offense described in this section, refusal to take a test for intoxicants, is a specific fine traffic violation. The presumptive fine for refusal to take a test for intoxicants is $650. The fine described in this section is in addition to any other consequence prescribed by law for refusal to take a test for intoxicants. [2003 c.814 §2; 2009 c.614 §1; 2011 c.597 §102]

813.100 Implied consent to breath or blood test; confiscation of license upon refusal or failure of test. (1) Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have given consent, subject to the implied consent law, to a chemical test of the person's breath, or of the person's blood if the person is receiving medical care in a health care facility immediately after a motor vehicle accident, for the purpose of determining the alcoholic content of the person's blood if the person is arrested for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. A test shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. Before the test is administered the person requested to take the test shall be informed of consequences and rights as described under ORS 813.130.

(2) If a person refuses to submit to a test under this section or if a breath test under this section discloses that the person, at the time of the test, had a level of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor under ORS 813.300 and the person has been informed of rights and consequences as provided under ORS 813.130, the person's driving privileges are subject to suspension under ORS 813.410 and the police officer shall do all of the following:

(a) Immediately take custody of any driver license or permit issued by this state to the person to grant driving privileges.

(b) Provide the person with a written notice of intent to suspend, on forms prepared and provided by the Department of Transportation. The written notice shall inform the person of consequences and rights as described under ORS 813.130.

(c) If the person qualifies under ORS 813.110, issue to the person, on behalf of the department, a temporary driving permit described under ORS 813.110.

(d) Within a period of time required by the department by rule, report action taken under this section to the department and prepare and cause to be delivered to the department a report as described in ORS 813.120, along with the confiscated license or permit and a copy of the notice of intent to suspend.

(3) If a blood test under this section discloses that the person, at the time of the test, had a level of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor under ORS 813.300, the person's driving privileges are subject to suspension under ORS 813.410 and the police officer shall report to the department within 45 days of the date of arrest that the person failed the blood test.

(4) Nothing in this section precludes a police officer from obtaining a chemical test of the person's breath or blood through any lawful means for use as evidence in a criminal or civil proceeding including, but not limited to, obtaining a search warrant. [1983 c.338 §591; 1985 c.16 §298; 1985 c.672 §19; 1993 c.305 §1; 1995 c.568 §1; 2013 c.642 §1; 2019 c.475 §1]

813.110 Temporary permit upon confiscation of license. (1) Except as otherwise provided by this section, police officers, on behalf of the Department of Transportation, shall issue temporary driving permits described under this section to persons when required under ORS 813.100.

(2) The department shall provide police departments and agencies with permits for issuance as required by this section. The department shall establish the form and content of permits described in this section as the department determines appropriate, but in a manner consistent with this section.

(3) A permit described in this section is subject to all the following:

(a) Except as provided in paragraph (b) of this subsection, the permit is valid until the 30th day after the date of arrest.

(b) During the 12-hour period following issuance of the permit, the person is subject to ORS 807.570, and the permit is not a defense to a charge under ORS 807.570.

(c) The permit shall be issued without payment of any fee.

(d) The permit grants the same driving privileges as those granted by the person's license taken into possession under ORS 813.100.

(4) A police officer shall not issue a permit under this section if:

(a) Driving privileges of the person were suspended, revoked or canceled at the time the person was arrested;

(b) The person whose license was taken into custody was operating on an invalid license;

(c) The person was not entitled to driving privileges at the time of the arrest for any other reason; or

(d) The person holds a license or permit granting driving privileges that was issued by another state or jurisdiction and that is not taken into custody under ORS 813.100. [1985 c.16 §142; 1985 c.672 §17]

813.120 Police report to department. (1) A report required by ORS 813.100 shall disclose substantially all of the following information:

(a) Whether the person, at the time the person was requested to submit to a test, was under arrest for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.

(b) Whether the police officer had reasonable grounds to believe, at the time the request was made, that the person arrested had been driving under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.

(c) Whether the person refused to submit to a test or if the person submitted to a breath or blood test whether the level of alcohol in the person's blood, as shown by the test, was sufficient to constitute being under the influence of intoxicating liquor under ORS 813.300.

(d) Whether the person was driving a commercial motor vehicle and refused to submit to a test or if the person submitted to a breath or blood test whether the level of alcohol in the person's blood, as shown by the test, was 0.04 percent or more by weight.

(e) Whether the person was informed of consequences and rights as described under ORS 813.130.

(f) Whether the person was given written notice of intent to suspend required by ORS 813.100 (2)(b).

(g) If the arrested person took a test, a statement that the person conducting the test was appropriately qualified.

(h) If the arrested person took a test, a statement that any methods, procedures and equipment used in the test comply with any requirements under ORS 813.160.

(2) A report required by ORS 813.100 may be made in one or more forms specified by the Department of Transportation. [1983 c.338 §405; 1985 c.16 §215; 1985 c.672 §20; 1989 c.636 §42; 1993 c.305 §3; 1993 c.751 §70; 1995 c.568 §3; 2019 c.475 §12]

813.130 Rights of and consequences for person asked to take test. This section establishes the requirements for information about rights and consequences for purposes of ORS 813.100 and 813.410. The following apply to the information about rights and consequences:

(1) The information about rights and consequences shall be substantially in the form prepared by the Department of Transportation. The department may establish any form it determines appropriate and convenient.

(2) Except as provided in subsection (3) of this section, the information about rights and consequences shall be substantially as follows:

(a) Driving under the influence of intoxicants is a crime in Oregon, and the person is subject to criminal penalties if a test under ORS 813.100 shows that the person is under the influence of intoxicants. If the person fails a test, evidence of the failure may also be offered against the person.

(b) The person will fail a test under ORS 813.100 for purposes of criminal penalties if the test discloses a blood alcohol content of 0.08 percent or more by weight of alcohol in

the blood of the person as shown by chemical analysis of the breath or blood. The person will fail a test for purposes of the Motorist Implied Consent Law if the test discloses a blood alcohol content of:

(A) 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(c) If the person fails a test under ORS 813.100, the person's driving privileges will be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will not affect the suspension.

(d) If the person fails a breath test under ORS 813.100 and has an Oregon driver license or permit, the license or permit will be taken immediately and, unless the person does not currently have full valid driving privileges, a temporary driving permit will be issued to the person.

(e) After taking a test under ORS 813.100, the person will have a reasonable opportunity, upon request, for an additional chemical test for blood alcohol content to be performed at the person's own expense by a qualified individual of the person's choosing.

(f) The person has a right to a hearing to challenge the validity of the suspension before the suspension becomes effective. The person must make a written request to the department for such a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended. If the person loses at the hearing, the suspension will remain in effect during any court review of the hearing.

(g) If the person is issued a temporary driving permit under ORS 813.100, the information provided to the person shall include the number of hours before the driving permit will be effective and the number of days the permit will be effective.

(h) The information provided to the person shall include the number of days within which a person must request a hearing under ORS 813.410.

(i) The information provided to the person shall include the number of days within which a hearing under ORS 813.410 will be held.

(j) The person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on the person's driving record.

(k) If the person is driving a commercial motor vehicle, and takes a breath or blood test under ORS 813.100 after being informed of the rights and consequences under paragraphs (a) to (j) of this subsection, the following additional information shall be provided:

(A) If the level of alcohol in the person's blood is 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood, the person's commercial driving privileges or right to apply for commercial driving privileges will be suspended and no hardship permit authorizing the person to drive a commercial motor vehicle will be issued.

(B) The suspension of the person's commercial driving privileges or right to apply for commercial driving privileges will be for the person's lifetime if the person takes a breath or blood test and the level of alcohol in the person's blood is 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood and:

(i) The person previously has been convicted of failure to perform the duties of a driver;

(ii) The person previously has been convicted of a crime punishable as a felony and the person was driving a motor vehicle at the time the offense was committed;

(iii) The person previously has been convicted of driving a commercial motor vehicle while the person's commercial driving privileges or right to apply for commercial driving privileges was suspended or revoked for offenses committed while operating a commercial motor vehicle;

(iv) The person previously has been convicted of any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault in the first degree resulting from the operation of a commercial motor vehicle;

(v) The person previously has been convicted of driving while under the influence of intoxicants;

(vi) The person's commercial driving privileges previously have been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100; or

(vii) The person's right to apply for commercial driving privileges previously has been suspended or revoked for refusal to submit to, or failure of, a breath or blood test

under ORS 813.100 resulting from the operation of a commercial motor vehicle.

(3) A person who refuses to submit to a chemical test after being informed of the rights and consequences in subsection (2) of this section shall be provided additional information, substantially as follows:

(a) If the person refuses to provide consent to a breath or blood test, and is thereafter requested to provide only physical cooperation to submit to a breath or blood test, and the person refuses to physically submit to a test, evidence of that refusal may be offered against the person.

(b) If the person refuses to submit to a test under ORS 813.100, the person's driving privileges will be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will not affect the suspension. The suspension will be substantially longer if a person refuses a test.

(c) If the person refuses to submit to a breath test under ORS 813.100 and has an Oregon driver license or permit, the license or permit will be taken immediately and, unless the person does not currently have full valid driving privileges, a temporary driving permit will be issued to the person.

(d) If the person refuses to submit to a test under ORS 813.100, the person is not eligible for a hardship permit for at least 90 days, and possibly for three years, depending on the following factors set forth in ORS 813.430:

(A) Whether the person is presently participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction; or

(B) Whether within the five years preceding the date of arrest any of the following occurred:

(i) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replacement Part) became effective;

(ii) The person was convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction, as described in ORS 813.430;

(iii) The person was convicted of driving while under the influence of intoxicants in violation of a municipal ordinance in this state or another jurisdiction, as described in ORS 813.430; or

(iv) The person commenced participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction, as described in ORS 813.430.

(e) If the person refuses to submit to a breath test under ORS 813.100, or refuses to provide a urine sample under ORS 813.131 and 813.132, the person is subject to a fine of at least $500 and not more than $1,000.

(f) The person has a right to a hearing to challenge the validity of the suspension before the suspension becomes effective. The person must make a written request to the department for such a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended. If the person loses at the hearing, the suspension will remain in effect during any court review of the hearing.

(g) If the person is issued a temporary driving permit under ORS 813.100, the number of hours before the driving permit will be effective and the number of days the permit will be effective.

(h) The number of days within which a person must request a hearing under ORS 813.410.

(i) The number of days within which a hearing under ORS 813.410 will be held.

(j) The person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on the person's driving record.

(k) If the person is driving a commercial motor vehicle, further information as follows:

(A) If the person refuses to submit to a test under ORS 813.100, the person's commercial driving privileges or right to apply for commercial driving privileges will be suspended and no hardship permit authorizing the person to drive a commercial motor vehicle will be issued. The suspension will be substantially longer if the person refuses the test.

(B) The suspension of the person's commercial driving privileges or right to apply for commercial driving privileges will be for the person's lifetime if the person refuses to submit to a test under ORS 813.100 and:

(i) The person previously has been convicted of failure to perform the duties of a driver;

(ii) The person previously has been convicted of a crime punishable as a felony and the person was driving a motor vehicle at the time the offense was committed;

(iii) The person previously has been convicted of driving a commercial motor vehicle while the person's commercial driving privileges or right to apply for commercial driving privileges was suspended or revoked for offenses committed while operating a commercial motor vehicle;

(iv) The person previously has been convicted of any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault in the first degree resulting from the operation of a commercial motor vehicle;

(v) The person previously has been convicted of driving while under the influence of intoxicants;

(vi) The person's commercial driving privileges previously have been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100; or

(vii) The person's right to apply for commercial driving privileges previously has been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting from the operation of a commercial motor vehicle.

(4) Nothing in this section prohibits the department from providing additional information concerning rights and consequences that the department considers convenient or appropriate. [1985 c.672 §22; 1987 c.673 §3; 1987 c.801 §11; 1989 c.171 §92; 1989 c.636 §43; 1991 c.185 §15; 1991 c.860 §10; 1993 c.305 §4; 1995 c.568 §4; 2003 c.814 §3; 2005 c.649 §28; 2009 c.607 §2; 2009 c.614 §2; 2013 c.237 §27; 2019 c.475 §2]

813.131 Implied consent to urine test; privacy; laboratories for analysis. (1) A person may be asked to provide a urine sample under ORS 813.140 or subsection (2) of this section.

(2) Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have given consent, subject to the Motorist Implied Consent Law, to a chemical test of the person's urine for the purpose of determining the presence of cannabis, a controlled substance or an inhalant in the person's body if the person is arrested for driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance and either:

(a) The person takes the breath test described in ORS 813.100 and the test discloses a blood alcohol content of less than 0.08 percent; or

(b) The person is involved in an accident resulting in injury or property damage. A urine test may be requested under this paragraph regardless of whether a breath test has been requested and regardless of the results of a breath test, if one is taken.

(3) A police officer may not request a urine test unless the officer is certified by the Department of Public Safety Standards and Training as having completed at least eight hours of training in recognition of drug impaired driving and the officer has a reasonable suspicion that the person arrested has been driving while under the influence of cannabis, a controlled substance, an inhalant or any combination of cannabis, a controlled substance, an inhalant and intoxicating liquor.

(4) A person asked to give a urine sample shall be given privacy and may not be observed by a police officer when producing the sample.

(5)(a) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person driving a motor vehicle while under the influence of intoxicants, a valid chemical analysis of a person's urine is admissible as evidence and may be used with other evidence, if any, to determine whether the person was driving while under the influence of intoxicants.

(b) A chemical analysis of a person's urine is valid if analysis is performed in an accredited or licensed toxicology laboratory. [1995 c.676 §1; 1999 c.619 §10; 1999 c.752 §1; 2009 c.325 §1; 2015 c.11 §1; 2017 c.21 §82; 2019 c.475 §3]

813.132 Consequences of refusing to take urine test; exception. (1) Except as otherwise provided in this section, a refusal to submit to a urine test requested under ORS 813.131 shall be treated for all purposes as a refusal to submit to a breath test. A suspension imposed for refusal to submit to a urine test under ORS 813.131 (2) shall be consecutive to any other suspension imposed under the Motorist Implied Consent Law. If a person is subject to consecutive suspensions, the length of time that must elapse before the Department of Transportation may reinstate driving privileges or issue a hardship permit under ORS 813.520 shall be doubled.

(2) If a person refuses to submit to a urine test under ORS 813.131 (2), in addition to information described in ORS 813.130, the person asked to take the test shall be informed that if the person refuses to submit to the test, the person's driving privileges will be suspended for the same time period and with the same consequences as if the person had refused to submit to the breath test and that a suspension for refusal to submit to the urine test will be consecutive to any other suspension under the Motorist Implied Consent Law.

(3) Notwithstanding subsection (1) of this section, no suspension of driving privileges shall be imposed for refusal to submit to a urine test if the person provides documentation from a physician licensed by this state showing that the person has a medical condition that makes it impossible for the person to provide a sample. [1995 c.676 §2; 1997 c.25 §3; 2019 c.475 §4]

813.135 Implied consent to field sobriety tests. Any person who operates a vehicle upon premises open to the public or the highways of the state shall be deemed to have given consent to submit to field sobriety tests upon the request of a police officer for the purpose of determining if the person is under the influence of intoxicants if the police officer reasonably suspects that the person has committed the offense of driving while under the influence of intoxicants in violation of ORS 813.010 or a municipal ordinance. If the person refuses to consent to field sobriety tests, the person shall be asked to provide only physical cooperation to submit to nontestimonial field sobriety tests, and the person shall be informed of the consequences of failing to physically submit to those tests under ORS 813.136. [1989 c.576 §15; 2019 c.475 §5]

813.136 Consequence of refusal or failure to submit to field sobriety tests. If a person refuses or fails to physically submit to field sobriety tests as required by ORS 813.135 after the person has been informed of the consequences of refusing to submit, evidence of the person's refusal or failure to physically submit is admissible in any criminal or civil action or proceeding arising out of allegations that the person was driving while under the influence of intoxicants. [1989 c.576 §14; 2019 c.475 §6]

CHEMICAL TESTS; METHODS AND REQUIREMENTS

813.140 Chemical test with consent; unconscious person. Nothing in ORS 813.100, 813.131 or 813.132 is intended to preclude the administration of a chemical test described in this section. A police officer may obtain a chemical test of the breath or blood to determine the amount of alcohol in any person's blood or a test of the person's blood or urine, or both, to determine the presence of cannabis, a controlled substance or an inhalant in the person as provided in the following:

(1) If, when requested by a police officer, the person expressly consents to such a test.

(2) Notwithstanding subsection (1) of this section, from a person without the person's consent if:

(a) The police officer has probable cause to believe that the person was driving while under the influence of intoxicants and that evidence of the offense will be found in the person's blood or urine; and

(b) The person is unconscious or otherwise in a condition rendering the person incapable of expressly consenting to the test or tests requested. [1983 c.338 §593; 1985 c.16 §299; 1999 c.619 §11; 2013 c.642 §2; 2017 c.21 §83; 2019 c.475 §7]

813.150 Chemical test at request of arrested person. In addition to a chemical test of the breath, blood or urine administered under ORS 813.100 or 813.140, upon the request of a police officer, a person shall be permitted upon request, at the person's own expense, reasonable opportunity to have any licensed physician and surgeon, licensed professional nurse or qualified technician, chemist or other qualified person of the person's own choosing administer a chemical test or tests of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood or a chemical test or tests of the person's blood or urine, or both, for the purpose of determining the presence of cannabis, a controlled substance or an inhalant in the person. The failure or inability to obtain such a test or tests by a person shall not preclude the admission of evidence relating to a test or tests taken upon the request of a police officer. [1983 c.338 §594; 1985 c.16 §300; 1999 c.619 §12; 2017 c.21 §84]

813.160 Methods of conducting chemical analyses; duties of Department of State Police; reports; costs. (1) A chemical analysis is valid under ORS 813.300 if:

(a) It is an analysis of a person's blood for alcohol content and is performed in:

(A) A laboratory certified or accredited under 42 C.F.R. part 493 and approved for toxicology testing;

(B) A laboratory licensed under ORS 438.110 and approved for toxicology testing; or

(C) A forensic laboratory established by the Department of State Police under ORS 181A.150 that is accredited by a national forensic accrediting organization.

(b) It is an analysis of a person's breath and is performed by an individual possessing a valid permit to perform chemical analyses issued by the Department of State Police and is performed according to methods approved by the Department of State Police. For purposes of this paragraph, the Department of State Police shall do all of the following:

(A) Approve methods of performing chemical analyses of a person's breath.

(B) Prepare manuals and conduct courses throughout the state for the training of police officers in chemical analyses of a person's breath, which courses shall include, but are not limited to, approved methods of chemical analyses, use of approved equipment and interpretation of test results together with a written examination on these subjects.

(C) Test and certify the accuracy of equipment to be used by police officers for chemical analyses of a person's breath before regular use of the equipment and periodically

thereafter at intervals of not more than 90 days. Tests and certification required by this subparagraph must be conducted by trained technicians. Certification under this subparagraph does not require a signed document.

(D) Ascertain the qualifications and competence of individuals to conduct chemical analyses in accordance with one or more methods approved by the department.

(E) Issue permits to individuals according to their qualifications. Permits may be issued to police officers only upon satisfactory completion of the prescribed training course and written examination. A permit must state the methods and equipment that the police officer is qualified to use. Permits are subject to termination or revocation at the discretion of the Department of State Police.

(2) In conducting a chemical test of the blood, only a duly licensed physician or a person acting under the direction or control of a duly licensed physician may withdraw blood or pierce human tissue. A licensed physician, or a qualified person acting under the direction or control of a duly licensed physician, is not civilly liable for withdrawing any bodily substance, in a medically acceptable manner, at the request of a peace officer.

(3) An individual who performs a chemical analysis of breath or blood under ORS 813.100 or 813.140 shall prepare and sign a written report of the findings of the test that must include the identification of the police officer upon whose request the test was administered.

(4) Any individual having custody of the report mentioned in subsection (3) of this section shall, upon request of the person tested, furnish that person or that person's attorney, a copy of the report.

(5) The expense of conducting a chemical test as provided by ORS 813.100 or 813.140 must be paid by the governmental unit on whose equipment the test is conducted or by the governmental unit upon whose request the test was administered if no governmental unit's equipment is used to conduct the test. [1983 c.338 §173; 1985 c.16 §57; 1985 c.337 §2; 1995 c.351 §1; 2003 c.19 §1]

PLEA AGREEMENT

813.170 Plea agreement prohibited. (1) Notwithstanding ORS 135.405 to 135.445, a person charged with the offense of driving under the influence of intoxicants shall not be allowed to plead "guilty" or "no contest" to any other offense in exchange for a dismissal of the offense charged. No district attorney or city attorney shall make any motion and no judge shall enter any order in derogation of this section. This section does not prohibit diversion as provided under ORS 813.200.

(2) Notwithstanding ORS 135.881 to 135.901, a person charged with the offense of driving under the influence of intoxicants shall not be allowed to enter into any program of supervised performance or diversion except as provided under ORS 813.200. [1983 c.338 §382; 1999 c.1051 §294]

DIVERSION

813.200 Notice of availability of diversion; petition; form; contents. (1) The court shall inform at arraignment a defendant charged with the offense of driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance conforming thereto that a diversion agreement may be available if the defendant meets the criteria set out in ORS 813.215 and files with the court a petition for a driving while under the influence of intoxicants diversion agreement.

(2) The petition forms for a driving while under the influence of intoxicants diversion agreement shall be available to a defendant at the court.

(3) The form of the petition for a driving while under the influence of intoxicants diversion agreement and the information and blanks contained therein shall be determined by the Supreme Court under ORS 1.525. The petition forms made available to a defendant by any city or state court shall conform to the requirements adopted by the Supreme Court.

(4) In addition to any other information required by the Supreme Court to be contained in a petition for a driving while under the influence of intoxicants diversion agreement, the petition shall include:

(a) A plea of guilty or no contest to the charge of driving while under the influence of intoxicants signed by the defendant;

(b) An agreement by the defendant to complete at an agency or organization designated by the city or state court a screening interview to determine the possible existence and degree of an alcohol or drug abuse problem;

(c) An agreement by the defendant to complete, at defendant's own expense based on defendant's ability to pay, the program of treatment:

(A) Indicated as necessary by the screening interview; or

(B) If ordered by the court under ORS 813.640 after the court receives at least two negative reports;

(d) Except as provided in subsection (5) of this section, an agreement by the defendant to not use intoxicants during the diver-

sion period and to comply fully with the laws of this state designed to discourage the use of intoxicants;

(e) A notice to the defendant that the diversion agreement will be considered to be violated if the court receives notice that the defendant at any time during the diversion period committed the offense of driving while under the influence of intoxicants or committed a violation of ORS 811.170;

(f) An agreement by the defendant to keep the court advised of the defendant's current mailing address at all times during the diversion period;

(g) A waiver by the defendant of any former jeopardy rights under the federal and state Constitutions and ORS 131.505 to 131.525 in any subsequent action upon the charge or any other offenses based upon the same criminal episode;

(h) A sworn statement, as defined in ORS 162.055, by the defendant certifying that the defendant meets the criteria set out in ORS 813.215 to be eligible to enter into the driving while under the influence of intoxicants diversion agreement;

(i) An agreement by the defendant to pay court-appointed attorney fees as determined by the court; and

(j) An agreement by the defendant to pay restitution if ordered by the court under ORS 137.108.

(5) A person may use intoxicants during the diversion period if:

(a) The person consumes sacramental wine given or provided as part of a religious rite or service;

(b) The person has a valid prescription for a substance and the person takes the substance as directed; or

(c) The person is using a nonprescription drug, as defined in ORS 689.005, in accordance with the directions for use that are printed on the label for that nonprescription drug. [1983 c.338 §369; 1985 c.16 §191; 1987 c.441 §4; 2003 c.816 §1; 2011 c.468 §3; 2013 c.78 §4; 2015 c.318 §50; 2017 c.655 §9]

813.210 Petition; filing fee; screening interview fee; service on prosecutor; objection. (1) After an accusatory instrument has been filed charging the defendant with the offense of driving while under the influence of intoxicants, a defendant may file with the court a petition for a driving while under the influence of intoxicants diversion agreement described in ORS 813.200. The petition:

(a) Must be filed within 30 days after the date of the defendant's first appearance on the summons, unless a later filing date is allowed by the court upon a showing of good cause. For purposes of this paragraph, the filing of a demurrer, a motion to suppress or a motion for an omnibus hearing does not constitute good cause.

(b) Notwithstanding paragraph (a) of this subsection, may not be filed after entry of a guilty plea or a no contest plea or after commencement of any trial on the charge whether or not a new trial or retrial is ordered for any reason.

(c) Notwithstanding paragraph (a) of this subsection, may be filed up to 14 days after the date the prosecuting attorney sends the laboratory test results of the defendant's urine or blood sample analysis to the defendant's attorney or, if the defendant is unrepresented, the defendant, if:

(A) The accusatory instrument alleges that the defendant was driving under the influence of intoxicants and alleges that at the time the conduct occurred the defendant was under the influence of a controlled substance or an inhalant;

(B) The defendant has not received notice of what the defendant's blood alcohol content was at the time the conduct occurred or if at the time the conduct occurred the defendant had less than 0.08 percent by weight of alcohol in the blood; and

(C) A police officer obtained a urine or blood sample from the defendant.

(2) The defendant shall pay to the court, at the time of filing a petition for a driving while under the influence of intoxicants diversion agreement, a filing fee established under ORS 813.240. The court may make provision for payment of the filing fee by the defendant on an installment basis. The court may waive all or part of the filing fee in cases involving indigent defendants. The filing fee paid to the court under this subsection shall be retained by the court if the petition is allowed. The filing fee shall be distributed as provided by ORS 813.240.

(3) The defendant shall pay to the agency or organization providing the screening interview, at the time the petition is allowed, the fee required by ORS 813.240 (3).

(4)(a) Unless otherwise provided under paragraph (b) of this subsection, the defendant shall pay to the court any court-appointed attorney fees agreed to under ORS 813.200 (4)(i). Payments shall be made prior to the end of the diversion period on a schedule determined by the court.

(b) The court may waive all or part of the court-appointed attorney fees agreed to under ORS 813.200 (4)(i).

(5) The defendant shall begin paying to the court any restitution ordered under ORS 137.108. Payments shall be made during the

diversion period on a schedule determined by the court.

(6) The defendant shall cause a copy of the petition for a driving while under the influence of intoxicants diversion agreement to be served upon the district attorney or city attorney. The district attorney or city attorney may file with the court, within 15 days after the date of service, a written objection to the petition and a request for a hearing. [1983 c.338 §370; 1985 c.16 §192; 1987 c.441 §5; 1987 c.534 §1; 1993 c.13 §6; 2003 c.816 §2; 2011 c.595 §170; 2013 c.78 §5; 2015 c.318 §51; 2017 c.491 §1]

813.215 Eligibility for diversion. (1) A defendant is eligible for diversion if the defendant meets all of the following conditions:

(a) On the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement, the defendant had no charge, other than the charge for the present offense, pending for:

(A) An offense of driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

(ii) The statutory counterpart to ORS 813.010 in another jurisdiction;

(B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of intoxicating liquor, cannabis, a controlled substance, an inhalant or any combination thereof; or

(C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(b) The defendant has not been convicted of an offense described in paragraph (a) of this subsection within the period beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(c) The defendant has not been convicted of a felony offense described in ORS 813.010 (5)(a).

(d) The defendant was not participating in a driving while under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in this state or in another jurisdiction on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement. A defendant is not ineligible for diversion under this paragraph by reason of participation in a diversion program or any similar alcohol or drug rehabilitation program as a result of the charge for the present offense or a charge for violation of ORS 471.430.

(e) The defendant did not participate in a diversion or rehabilitation program described in paragraph (d) of this subsection within the period beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement. A defendant is not ineligible for diversion under this paragraph by reason of participation in a diversion program or rehabilitation program described in paragraph (d) of this subsection as a result of the charge for the present offense or a charge for violation of ORS 471.430.

(f) The defendant had no charge of an offense of aggravated vehicular homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle pending in this state or in another jurisdiction on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(g) The defendant has not been convicted of an offense described in paragraph (f) of this subsection within the period beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(h) The defendant did not hold commercial driving privileges on the date of the commission of the offense.

(i) The defendant was not operating a commercial motor vehicle at the time of the offense.

(j) The present driving while under the influence of intoxicants offense did not involve an accident resulting in:

(A) Death of any person; or

(B) Physical injury as defined in ORS 161.015 to any person other than the defendant.

(2) For the purposes of subsection (1)(a) of this section, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.

(3) A defendant is eligible for a second or subsequent diversion if the defendant meets all of the conditions of subsection (1) of this section and the defendant has not been convicted of any other criminal offense involving a motor vehicle within the period

beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for the second or subsequent driving while under the influence of intoxicants diversion agreement. [1987 c.441 §3; 1997 c.749 §5; 1999 c.445 §1; 1999 c.1051 §295; 2005 c.649 §29; 2007 c.122 §11; 2007 c.867 §14; 2007 c.879 §10; 2009 c.515 §1; 2013 c.134 §1; 2013 c.237 §28; 2016 c.24 §62; 2017 c.21 §85]

813.220 Matters to be considered by court in determining to allow diversion agreement; reasons for denial. After the time for requesting a hearing under ORS 813.210 has expired with no request for a hearing, or after a hearing requested under ORS 813.210, the court shall determine whether to allow or deny a petition for a driving while under the influence of intoxicants diversion agreement. In making a determination under this section, the court:

(1) Shall consider whether the diversion will be of benefit to the defendant and the community.

(2) May take into consideration whether there was an early recognition by the defendant during the proceeding that a course of diagnosis and treatment of problem drinking, alcoholism or drug dependency would be beneficial.

(3) May take into consideration whether there is a probability that the defendant will cooperate with the diagnostic assessment and treatment agencies.

(4) May take into consideration whether the defendant will observe the restrictions contained in the diversion agreement.

(5) May take into consideration whether the offense was committed in a motor vehicle and whether there was a passenger in the motor vehicle who was under 18 years of age and at least three years younger than the defendant.

(6) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant failed to appear at an arraignment on the present offense without good cause.

(7) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if, after the date the defendant filed the petition, the defendant was charged with or convicted of:

(a) An offense of driving while under the influence of intoxicants in violation of:

(A) ORS 813.010; or

(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

(b) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of intoxicating liquor, cannabis, a controlled substance, an inhalant or any combination thereof; or

(c) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(8) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant participated in a driving while under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program, other than a program entered into as a result of the charge for the present offense, in this state or in another jurisdiction after the date the defendant filed the petition.

(9) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant was charged with or convicted of an offense of aggravated vehicular homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction after the date the defendant filed the petition.

(10) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant has been convicted of a felony offense described in ORS 813.010 (5)(a).

(11) For the purposes of subsection (7) of this section, may not consider a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older as a prior conviction.

(12) May not deny the petition for a driving while under the influence of intoxicants diversion agreement solely on the basis that the defendant is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard and has been called or demonstrates that the defendant will be called to active duty, and the military service will impair the defendant's ability to complete the diversion program. [1983 c.338 §371; 1987 c.441 §6; 1997 c.749 §6; 1999 c.1051 §296; 2003 c.445 §2; 2007 c.867 §15; 2007 c.879 §7; 2011 c.197 §1; 2017 c.21 §86]

813.222 Right of victim to be present at hearing. (1) If a driving while under the influence of intoxicants offense involves damage to property of a person other than the defendant, the victim of the property damage has a right to be present and to be heard at any hearing on a petition for a diversion agreement.

(2) The district attorney or city attorney shall notify the victim that the defendant may be eligible for diversion and that if there is a hearing on a petition for diversion, the victim has a right to be present and to be heard at the hearing. [1999 c.445 §3]

813.225 Petition for extension of diversion period; conditions. (1) A defendant may apply by motion to the court in which a driving while under the influence of intoxicants diversion agreement described in ORS 813.230 was entered for an order extending the diversion period:

(a) Within 30 days prior to the end of the diversion period; or

(b) If the defendant is serving on active duty as a member of the Armed Forces of the United States, or is a member of the reserve components of the Armed Forces of the United States or the National Guard, at any time prior to the end of the diversion period.

(2) Petition forms for an application for an extension under this section shall be available to a defendant at the court.

(3) The form of the petition for an extension under this section shall be determined by the Supreme Court under ORS 1.525. The petition forms made available to a defendant by any city or state court shall conform to the requirements of the Supreme Court.

(4) The court may grant a petition for an extension filed under this section if the court finds that the defendant made a good faith effort to complete the conditions of the diversion agreement and that the defendant can complete the conditions of the diversion agreement within the requested extended diversion period.

(5) An extension granted under this section may be for no more than 180 days from the ending date of the original diversion period or for another time period the court allows under subsection (7) of this section.

(6) Except as provided in subsection (7) of this section, a court may grant a defendant only one extension of a diversion period under this section.

(7) The court may extend the diversion period as necessary to allow the defendant sufficient time to complete the conditions of the diversion agreement if the defendant:

(a) Is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard;

(b) Is on active duty or has received orders that the defendant will be called to active duty; and

(c) Demonstrates that the military service will impair the defendant's ability to complete the conditions of the diversion agreement and no comparable treatment program described in ORS 813.233 is available.

(8) If the court grants the petition for an extension under this section, the following apply:

(a) If the defendant fully complies with the conditions of the diversion agreement within the extended diversion period, the court may dismiss the charge with prejudice under ORS 813.250.

(b) If the court finds that the defendant failed to comply with the diversion agreement within the extended diversion period, the court shall enter the guilty plea or no contest plea filed as part of the petition for a diversion agreement, shall enter a judgment of conviction and shall sentence the defendant.

(9) If the court denies the petition for an extension under this section, the court shall enter the guilty plea or no contest plea filed as part of the petition for a diversion agreement, shall enter a judgment of conviction and shall sentence the defendant. [1997 c.749 §7; 2003 c.816 §3; 2011 c.197 §2]

813.230 Diversion agreement; record; duration; effect of denial. (1) When the court allows a petition for a driving while under the influence of intoxicants diversion agreement filed as provided in ORS 813.210, the judge taking that action shall:

(a) Accept the guilty plea or no contest plea filed as part of the petition for a diversion agreement but withhold entry of a judgment of conviction; and

(b) Sign the petition and indicate thereon the date of allowance of the diversion period, the length of the diversion period and the date upon which the driving while under the influence offense occurred.

(2) The petition when signed and dated becomes the diversion agreement between the defendant and the court. The court shall make the agreement a part of the record of the case. The court shall notify the Department of Transportation of the diversion agreement in a form agreed to by the department and the State Court Administrator within 48 hours after allowing the petition. The department shall make the fact of the diversion agreement a part of the defendant's operating record.

(3) A driving while under the influence of intoxicants diversion agreement shall be for a period of one year after the date the court allows the petition. During the diversion period the court shall stay the driving while under the influence of intoxicants offense proceeding pending completion of the diversion agreement or its termination.

(4) When the court denies a petition for a driving while under the influence of intoxicants diversion agreement, it shall continue the offense proceeding against the defendant. The guilty plea or no contest plea filed as part of the petition for the diversion agreement may not be used in the offense proceeding under this subsection. [1983 c.338 §372; 1985 c.16 §193; 1985 c.710 §7; 1993 c.751 §71; 2003 c.816 §4]

813.233 Exemption from completing treatment program in this state. In lieu of completing a treatment program in this state as a part of completing the conditions of a driving while under the influence of intoxicants diversion agreement in this state, the court may allow a defendant who is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard and who is serving on active duty to participate in a comparable treatment program conducted by or authorized by a government entity in another jurisdiction. [2011 c.197 §5]

Note: 813.233 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

813.235 Attendance at victim impact treatment session as condition of diversion; fee. In a county that has a victim impact program a court may require as a condition of a driving while under the influence of intoxicants diversion agreement that the defendant attend a victim impact treatment session. If the court requires attendance under this section, the court may require the defendant, as part of the diversion agreement, to pay a reasonable fee to the victim impact program to offset the cost of the defendant's participation. The fee shall be established for each county by the victim impact panel coordinator and steering committee of that county and shall be not less than $5 or more than $50. [1987 c.830 §2; 1993 c.468 §2]

813.240 Amount and distribution of filing fee; screening interview fee. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while under the influence of intoxicants diversion agreement as provided in ORS 813.210 is $490. A fee collected under this subsection in the circuit court shall be deposited by the clerk of the court in the Criminal Fine Account. If the fee is collected in a municipal or justice court, $290 of the fee shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine Account, and the remainder of the fee shall be paid to the city or county treasurer.

(2) If less than the full filing fee is collected under subsection (1) of this section in a municipal or justice court, the money received shall be allocated first to the Department of Revenue for deposit in the Criminal Fine Account.

(3) In addition to the filing fee under subsection (1) of this section, the court shall order the defendant to pay $150 directly to the agency or organization providing the screening interview. [1983 c.338 §373; 1985 c.16 §194; 1985 c.277 §3; 1987 c.905 §30; 1989 c.576 §§8a,9a; 1989 c.635 §§2,4; 1991 c.557 §6; 1993 c.13 §7; 1999 c.1051 §297; 2003 c.737 §§71,72; 2005 c.303 §§2,3; 2005 c.702 §§85,86,87; 2009 c.595 §1143; 2011 c.595 §§167,186; 2011 c.671 §4; 2012 c.81 §§4,5; 2015 c.318 §52]

813.245 Booking. When a court grants a petition for a driving while under the influence of intoxicants diversion agreement, a court shall ensure that the defendant submits to booking, if the defendant has not already been booked on the charge of driving while under the influence of intoxicants in violation of ORS 813.010. [2015 c.145 §3]

Note: 813.245 was added to and made a part of ORS chapter 813 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

813.250 Motion to dismiss charge on completion of diversion; admissibility of statements. (1) At any time after the conclusion of the period of a driving while under the influence of intoxicants diversion agreement described in ORS 813.230, a defendant who has fully complied with and performed the conditions of the diversion agreement may apply by motion to the court wherein the diversion agreement was entered for an order dismissing the charge with prejudice.

(2) The defendant shall cause to be served on the district attorney or city attorney a copy of the motion for entry of an order dismissing with prejudice the charge of driving while under the influence of intoxicants. The motion shall be served on the district attorney or city attorney at the time it is filed with the court. The district attorney or city attorney may contest the motion.

(3) If the defendant does not appear as provided by subsection (1) of this section within six months after the conclusion of the diversion period, and if the court finds that the defendant fully complied with and performed the conditions of the diversion agreement, and if it gives notice of that finding to the district attorney or city attorney the court may on its own motion enter an order dismissing the charge of driving while under the influence of intoxicants with prejudice.

(4) No statement made by the defendant about the offense with which the defendant is charged shall be offered or received in evidence in any criminal or civil action or proceeding arising out of the same conduct

which is the basis of the charge of driving while under the influence of intoxicants, if the statement was made during the course of the screening interview or treatment program and to a person employed by the program. [1983 c.338 §374; 1985 c.16 §195; 1987 c.441 §7; 2015 c.318 §53]

813.252 Motion to dismiss charge when minimal fine amount remains. (1) At any time before entry of a judgment of conviction and within 180 days after the conclusion of the period of a driving while under the influence of intoxicants diversion agreement described in ORS 813.230 or an extension described in ORS 813.225, a defendant who has complied with and performed all of the conditions of the diversion agreement, except that the defendant owes $500 or less of the fees required under ORS 813.200, 813.210, 813.235 and 813.240, may apply by motion to the court wherein the diversion agreement was entered for a judgment dismissing with prejudice the charge of driving while under the influence of intoxicants.

(2) The defendant shall cause to be served on the district attorney or city attorney a copy of the motion for a judgment dismissing with prejudice the charge of driving while under the influence of intoxicants. The copy of the motion shall be served on the district attorney or city attorney at the time the motion is filed with the court. The district attorney or city attorney may contest the motion.

(3) At the hearing on the motion described in subsection (1) of this section, the court shall dismiss with prejudice the charge of driving while under the influence of intoxicants, if the defendant pays the balance of the fees owed by 5 p.m. on the day the hearing is held. The defendant may also pay the balance of the fees owed before the day the hearing is held.

(4) Before the court dismisses with prejudice a charge of driving while under the influence of intoxicants under this section, the court shall enter a judgment containing a money award, as defined in ORS 18.005, for any remaining amount of restitution owed by the defendant. [2013 c.78 §3]

Note: 813.252 was added to and made a part of ORS chapter 813 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

813.255 Termination of diversion. (1) At any time before the court dismisses with prejudice the charge of driving while under the influence of intoxicants, the court on its own motion or on the motion of the district attorney or city attorney may issue an order requiring the defendant to appear and show cause why the court should not terminate the diversion agreement. The order to show cause must:

(a) State the reasons for the proposed termination;

(b) Specify the amount of any fees owed and, if the amount owed is $500 or less, inform the defendant that the court may dismiss with prejudice the charge of driving while under the influence of intoxicants if the person has complied with and performed all of the conditions of the diversion agreement and pays the remaining amount before or on the date of the hearing; and

(c) Set an appearance date.

(2) The order to show cause shall be served on the defendant and on the defendant's attorney, if any. Service may be made by first class mail, postage paid, addressed to the defendant at the mailing address shown on the diversion petition and agreement or at any other address that the defendant provides in writing to the court.

(3) Except as provided in subsections (4), (5) and (6) of this section, the court shall terminate the diversion agreement and enter the guilty plea or no contest plea that was filed as part of the petition for the diversion agreement if the defendant fails to appear at the hearing on the order to show cause or if, at the hearing on the order to show cause, the court finds by a preponderance of the evidence that:

(a) The defendant no longer qualifies for the diversion agreement under the conditions described in ORS 813.215; or

(b) The defendant failed to fulfill all of the terms of the diversion agreement.

(4) If a defendant is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard and is on active duty, the court shall:

(a) Allow the defendant to appear at the hearing by telephone or other communication device approved by the court, if the defendant's military service permits such an appearance; or

(b) Stay the termination proceeding if the defendant's military service prohibits the defendant's appearance by telephone or other communication device and prohibits the defendant from aiding and assisting the attorney who would appear on the defendant's behalf.

(5) If the defendant appears at the hearing on the order to show cause, the court shall dismiss with prejudice the charge of driving while under the influence of intoxicants if:

(a) The defendant has complied with and performed all of the conditions of the diver-

sion agreement except that the defendant owes $500 or less of the fees required under ORS 813.200, 813.210, 813.235 and 813.240; and

(b) The defendant pays the balance of the fees owed by 5 p.m. on the day the hearing is held. The defendant may also pay the balance of the fees owed before the day the hearing is held.

(6) A court may not terminate a diversion agreement under this section for failure to pay restitution under ORS 137.108 if the defendant has otherwise complied with and performed all of the conditions of the diversion agreement.

(7) Before the court dismisses with prejudice the charge of driving while under the influence of intoxicants under this section, the court shall enter a judgment containing a money award, as defined in ORS 18.005, for any remaining amount of restitution owed by the defendant.

(8) If the court terminates the diversion agreement and enters the guilty plea or no contest plea, the court may take into account at time of sentencing any partial fulfillment by the defendant of the terms of the diversion agreement. [1987 c.441 §9; 2003 c.816 §5; 2011 c.197 §3; 2013 c.78 §1]

813.260 Designation of agencies to perform screening interviews; duties of agency. (1) Courts having jurisdiction over driving while under the influence of intoxicants offenses shall designate agencies or organizations to perform the screening interview and treatment required under driving while under the influence of intoxicants diversion agreements described in ORS 813.200. The designated agencies or organizations must meet minimum standards established pursuant to ORS 430.357 to perform the screening interview and treatment of problem drinking, alcoholism and drug dependency and must be certified by the Director of the Oregon Health Authority. Wherever possible a court shall designate agencies or organizations to perform the screening interview that are separate from those that may be designated to carry out a program of treatment.

(2) Monitoring of a defendant's progress under a diversion agreement shall be the responsibility of the agency or organization performing the screening interview. The agency or organization shall make a report to the court stating the defendant's successful completion or failure to complete all or any part of the treatment program specified by the screening interview. The form of the report shall be determined by agreement between the court and the agency or organization performing the screening interview. The court shall make the report of the agency or organization performing the screening interview that is required by this subsection a part of the record of the case. [1983 c.338 §375; 1991 c.557 §7; 2009 c.595 §1144; 2011 c.673 §43; 2015 c.318 §54]

813.270 Intoxicated Driver Program Fund; creation; uses. The Intoxicated Driver Program Fund is created to consist of moneys placed in the fund under ORS 813.030 and 813.240 or as otherwise provided by law and of gifts and grants made to the fund for carrying out the purposes of the fund. The moneys in the fund may be used only for the following purposes:

(1) To pay for providing treatment for individuals who enter diversion agreements under ORS 813.200 and who are found to be indigent. Payment for treatment under this subsection may include treatment for problem drinking, alcoholism or drug dependency. Payment shall be made as provided by the Director of the Oregon Health Authority by rule to agencies or organizations providing treatment.

(2) To pay for evaluation as provided by law of programs used for diversion agreements.

(3) To pay the cost of administration of the fund by the Oregon Health Authority.

(4) To pay for materials, resources and training supplied by the authority to those persons, organizations or agencies performing the screening interviews or providing education or treatment to persons under diversion agreements.

(5) To pay for providing treatment programs required under ORS 813.020 and treatment or information programs required under ORS 471.432 for individuals who are found to be indigent.

(6) To pay for special services required to enable a person with a disability, or a person whose proficiency in the use of English is limited because of the person's national origin, to participate in treatment programs that are used for diversion agreements under ORS 813.200 or are required under ORS 813.020. This subsection applies:

(a) Whether or not the person is indigent; and

(b) Only to special services required solely because of the person's disability or limited proficiency in the use of English. [1983 c.338 §141; 1985 c.16 §42; 1989 c.576 §10; 1991 c.557 §8; 1993 c.757 §1; 1999 c.126 §6; 1999 c.646 §5a; 2007 c.70 §343; 2009 c.595 §1145; 2015 c.318 §55]

EVIDENCE

813.300 Use of blood alcohol percentage as evidence; percentage required for being under the influence. (1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person driving a motor vehicle while under the influence of intoxicants, if the amount of alcohol in the person's blood at the time alleged is less than 0.08 percent by weight of alcohol as shown by chemical analysis of the person's breath or blood, it is indirect evidence that may be used with other evidence, if any, to determine whether or not the person was then under the influence of intoxicants.

(2) Not less than 0.08 percent by weight of alcohol in a person's blood constitutes being under the influence of intoxicating liquor.

(3) Notwithstanding subsection (2) of this section, for purposes of the Motorist Implied Consent Law as defined in ORS 801.010, for a person who is under 21 years of age, any amount of alcohol in the blood constitutes being under the influence of intoxicating liquor.

(4) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood or based upon grams of alcohol per 210 liters of breath. [1983 c.338 §590; 1985 c.16 §297; 1989 c.715 §7; 1991 c.860 §8; 2011 c.260 §1]

813.310 Refusal to take chemical test admissible as evidence. If a person refuses to physically submit to a chemical test under ORS 813.100 or 813.131, evidence of the person's refusal is admissible in any civil or criminal action, suit or proceeding arising out of acts alleged to have been committed while the person was driving a motor vehicle on premises open to the public or the highways while under the influence of intoxicants. [1983 c.338 §595; 1985 c.16 §301; 2019 c.475 §8]

813.320 Effect of implied consent law on evidence. (1) The provisions of the implied consent law, except ORS 813.300, shall not be construed by any court to limit the introduction of otherwise competent, relevant evidence in any civil action, suit or proceedings or in any criminal action other than a violation of ORS 813.010 or a similar municipal ordinance in proceedings under ORS 813.410.

(2) The provisions of the implied consent law shall not be construed by any court to limit the introduction of otherwise competent, relevant evidence of the amount of alcohol in the blood of a defendant in a prosecution for driving while under the influence of intoxicants. [1983 c.338 §596; 1985 c.16 §302; 1999 c.437 §1; 2019 c.475 §9]

813.322 Department of State Police rules regarding breath tests as evidence; validity of officer's permit. (1) A court shall, at the request of a party to the case, admit into evidence, without certification, a copy of administrative rules of the Department of State Police addressing methods of conducting chemical tests of a person's breath in a proceeding arising from the arrest of a person for driving while under the influence of intoxicants.

(2) If a police officer testifies in a proceeding arising from the arrest of a person for driving while under the influence of intoxicants that the officer has a valid permit to perform analysis of a person's breath, the defendant has the burden of moving forward with evidence to show that the officer does not have a valid permit. [1999 c.446 §2]

Note: 813.322 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

813.324 Use of testimony from implied consent hearing as evidence in prosecution. (1) If the prosecuting attorney or the attorney for the defendant in a prosecution for driving while under the influence of intoxicants obtains a tape or a transcript of a hearing held for the defendant under ORS 813.410, the attorney must provide a copy of the tape or transcript to the attorney for the other party at least seven days prior to the first date set for trial. If the attorney fails to supply the material in the time required, testimony from the hearing may not be admitted in evidence in the trial for any purpose, unless the attorney shows good cause for the failure to make the material available.

(2) The cost of a copy of a tape or transcript furnished under subsection (1) of this section shall be borne by the party who receives the copy.

(3) Nothing in this section requires a tape to be transcribed by the attorney who is required to provide a tape or transcript under subsection (1) of this section. [1999 c.831 §3]

Note: 813.324 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

813.326 Felony driving while under the influence of intoxicants; prior convictions. (1) In a prosecution for felony driving while under the influence of intoxicants under ORS 813.010, the state shall plead the prior convictions and shall prove the prior convictions unless the defendant stipulates to that fact prior to trial. If the

defendant so stipulates and the trial is by jury:

(a) The court shall accept the stipulation regardless of whether or not the state agrees to it;

(b) The defendant's stipulation to the prior convictions constitutes a judicial admission to that element of the accusatory instrument. The stipulation shall be made a part of the record of the case, but shall not be offered or received in the presence of the jury;

(c) For the purpose of establishing the prior convictions solely as an element of the crime under ORS 813.010, neither the court nor the state shall reveal to the jury the prior convictions, but the prior convictions are established in the record by the defendant's stipulation; and

(d) The court shall not submit the accusatory instrument or evidence of the prior convictions to the jury.

(2) In a proceeding under ORS 813.010, the state may offer, and the court may receive and submit to the jury, evidence of the prior convictions for impeachment of the defendant or another purpose, other than establishing the prior convictions as an element of the offense, when the evidence of the prior convictions is otherwise admissible for that purpose. When evidence of the prior convictions has been admitted by the court, the state may comment upon, and the court may give instructions about, the evidence of the prior convictions only to the extent that the comments or instructions relate to the purpose for which the evidence was admitted.

(3) When the defendant stipulates to the prior convictions required as an element of felony driving while under the influence of intoxicants under ORS 813.010, if the jury finds the defendant guilty upon instruction regarding the balance of the elements of the crime, the court shall enter a judgment of guilty of felony driving while under the influence of intoxicants.

(4) As used in this section, "conviction" includes a juvenile adjudication. [1999 c.1049 §5; 2009 c.525 §2]

Note: 813.326 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

813.328 Notice of intent to challenge validity of prior convictions. (1) A defendant who challenges the validity of prior convictions alleged by the state as an element of felony driving while under the influence of intoxicants must give notice of the intent to challenge the validity of the prior convictions at least seven days prior to the first date set for trial on the felony charge. The validity of the prior convictions shall be determined prior to trial by the court.

(2) As used in this section, "conviction" includes a juvenile adjudication. [1999 c.1049 §4; 2009 c.525 §3]

SUSPENSION

(For Conviction)

813.400 Suspension or revocation upon conviction; duration; review. (1) Except as provided in subsection (2) of this section, upon receipt of a record of conviction for misdemeanor driving while under the influence of intoxicants, the Department of Transportation shall suspend the driving privileges of the person convicted. The suspension shall be for a period described under Schedule II of ORS 809.428, except the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings. A person is entitled to administrative review under ORS 809.440 of a suspension imposed under this subsection.

(2) A person convicted of felony driving while under the influence of intoxicants, or a person convicted of misdemeanor driving while under the influence of intoxicants for a third or subsequent time, is subject to revocation of driving privileges as provided in ORS 809.235. [1983 c.338 §353(8); 1985 c.16 §166(8); 1985 c.393 §10a(8); 1985 c.669 §2a(8); 1991 c.702 §13; 2001 c.786 §3; 2003 c.346 §1; 2003 c.402 §40; 2005 c.436 §2]

813.403 [1989 c.636 §40; 1991 c.702 §14; 2003 c.402 §41; repealed by 2013 c.237 §12]

813.404 [1989 c.636 §41; 1991 c.185 §16; 1993 c.305 §5; 1995 c.568 §5; 2003 c.402 §42; 2005 c.649 §25; repealed by 2013 c.237 §12]

(Under Implied Consent Law)

813.410 Suspension upon receipt of police report on implied consent test; hearing; validity of suspension; appeal; rules. (1) If the Department of Transportation receives from a police officer a report that is in substantial compliance with ORS 813.120, the department shall suspend the driving privileges of the person in this state on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A suspension of driving privileges imposed under this subsection shall be for a period of time established under ORS 813.420.

(2) If the department receives from a police officer a report under ORS 813.120 and the person holds commercial driving privileges and the person was driving a motor vehicle or commercial motor vehicle and re-

fused to submit to a test under ORS 813.100 or the person was driving a commercial motor vehicle and submitted to a breath or blood test and the person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol, the department shall suspend the person's commercial driving privileges on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A commercial driving privileges suspension imposed under this subsection shall be for a period of time established under ORS 809.510 or 809.520.

(3) If within 10 days from the date of arrest, or, if the person fails a blood test, within 10 days from the date the department sends notice of suspension, the department receives a request for a hearing from a person whose driving privileges or commercial driving privileges the department proposes to suspend under this section, the department shall provide a hearing in accordance with this section. The person shall request a hearing in the form and manner prescribed by the department by rule. Except as otherwise provided under this section, a hearing held by the department under this section is subject to the provisions for contested cases, other than appeal provisions, under ORS chapter 183. The applicable appeal provisions are as provided under ORS 813.450 and section 24, chapter 672, Oregon Laws 1985. Notwithstanding ORS 809.430, the department is not required to give any notice of intent to suspend or suspension in addition to that provided under ORS 813.100.

(4) Except as provided in subsection (5) of this section, a hearing required by this section is subject to all of the following:

(a) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(b) The administrative law judge shall conduct the hearing by telephone or other two-way electronic communication device.

(c) The department may authorize the administrative law judge to issue a final order in any case.

(d) A person who requests a hearing under this section and who fails, without just cause, to appear personally or through an attorney waives the right to a hearing. If a person waives a right to a hearing under this paragraph, the department is not required to make any showing at hearing.

(e) Except as provided in ORS 813.440 or upon remand under ORS 813.450, the department shall hold the hearing and issue a final order within 30 days of the date of the arrest or, if the person fails a blood test, within 60 days from the date the department received the report of the failure.

(f) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the appearance of witnesses by telephone or other two-way electronic communication device at the hearing requested by the person or the department and the production of relevant documents.

(g) The hearing shall be recorded by whatever means may be determined by the department and shall include testimony and exhibits, if any. The record of the proceedings may not be transcribed unless requested by a party to the proceeding.

(5)(a) A person or a police officer may request that a hearing required by this section be conducted in person.

(b) The department, by rule, shall establish the manner and time limitation requirements by which a person or a police officer may request that a hearing be conducted in person.

(c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, a hearing requested under this subsection shall be held either in the county where the alleged offense occurred or at any place within 100 miles of the place where the offense is alleged to have occurred, as established by the department by rule.

(d) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the attendance of witnesses at the hearing requested under this subsection by the person and the production of relevant documents.

(6) This subsection shall be narrowly construed so as to effect the legislative purpose of limiting the scope of hearings under this section. The scope of a hearing under this section shall be limited to whether the suspension is valid as described in this subsection. A suspension under this section is valid if all of the following requirements have been met:

(a) The person, at the time the person was requested to submit to a test under ORS 813.100, was under arrest for driving while under the influence of intoxicants in violation of ORS 813.010 or a municipal ordinance.

(b) The police had reasonable grounds to believe, at the time the request was made,

that the person arrested had been driving under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.

(c) The person refused a test under ORS 813.100, or took a breath or blood test and the test disclosed that the level of alcohol in the person's blood at the time of the test was:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(d) If the report under ORS 813.120 indicates that the person was driving a commercial motor vehicle, the vehicle was in fact a commercial motor vehicle as defined in ORS 801.208.

(e) The person had been informed under ORS 813.100 of rights and consequences as described under ORS 813.130.

(f) The person was given written notice required under ORS 813.100.

(g) If the person arrested submitted to a test under ORS 813.100, the person administering the test was qualified to administer the test under ORS 813.160.

(h) If the person arrested submitted to a test under ORS 813.100, the methods, procedures and equipment used in the test complied with requirements under ORS 813.160.

(7) A suspension imposed under this section shall remain in effect pending any appeal or remand of a final order issued under this section and there shall be no stay of the suspension pending appeal or remand.

(8) Unless a person fails, without just cause, to appear personally or through an attorney at a hearing requested under this section, a person shall have the right to appeal any final order by the department after a hearing under this section by filing a petition. The following apply to this subsection:

(a) The person shall file the petition in the circuit court for the county where the person resides or, if the person does not reside in Oregon, in the circuit court of the county in which the arrest took place within 30 days after issuance of the final order of the department.

(b) The court upon receipt of the petition shall set the matter for hearing upon 10 days' notice to the department and the petitioner unless hearing is waived by both the department and the petitioner. [1983 c.338 §358; 1985 c.16 §167; 1985 c.672 §13; 1987 c.158 §170; 1989 c.636 §44; 1991 c.860 §11; 1993 c.305 §6; 1993 c.600 §1; 1995 c.568 §6; 1999 c.831 §2; 1999 c.849 §§193,194; 2003 c.75 §67; 2005 c.649 §27; 2007 c.288 §18; 2010 c.37 §1; 2013 c.237 §29; 2019 c.312 §22]

813.412 Role of police officer in implied consent hearing. Notwithstanding ORS 9.160 and 9.320, in any hearing under ORS 813.410 in which a city attorney or district attorney does not appear, a police officer actively involved in the investigation of the offense may present evidence, examine and cross-examine witnesses and make arguments relating to:

(1) The application of statutes and rules to the facts in the case;

(2) The literal meaning of the statutes or rules at issue in the case;

(3) The admissibility of evidence; and

(4) Proper procedures to be used in the hearing. [1999 c.831 §4; 2010 c.37 §2]

Note: 813.412 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

813.420 Duration of suspension for refusal or failure of test. When the Department of Transportation imposes a suspension under ORS 813.410, the suspension shall be for a period of time determined according to the following:

(1) If the suspension is for refusal of a test under ORS 813.100 and the person is not subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of one year.

(2) If the suspension is for refusal of a test under ORS 813.100 and the person is subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of three years.

(3) If the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is not subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of 90 days.

(4) If the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of one year. [1985 c.16 §171; 1993 c.305 §7; 1995 c.568 §7]

813.430 Grounds for increase in duration of suspension. This section establishes circumstances under which ORS 813.420 requires an increase in the time for suspension of driving privileges and under which ORS 813.520 requires an increase in the time before the Department of Transportation may issue a hardship permit. A person is subject to an increase in suspension time under this section if any of the following apply:

(1) The person is presently participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction.

(2) Within the five years preceding the date of arrest any of the following occurred:

(a) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replacement Part) became effective.

(b) The person was convicted of:

(A) Driving while under the influence of intoxicants in violation of:

(i) ORS 813.010;

(ii) The statutory counterpart to ORS 813.010 in another jurisdiction; or

(iii) A municipal ordinance in this state or another jurisdiction;

(B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of intoxicating liquor, cannabis, a controlled substance, an inhalant or any combination thereof; or

(C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(c) The person commenced participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction.

(3) For the purposes of subsection (2)(b) of this section, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction. [1985 c.16 §173; 1985 c.672 §15; 1987 c.801 §12; 2007 c.879 §8; 2017 c.21 §87]

813.440 Grounds for hearing on validity of suspension; rules. (1) Notwithstanding ORS 813.410, the Department of Transportation may provide a hearing to determine the validity of a suspension under ORS 813.410 only if the time requirements under ORS 813.410 could not be met because of any of the following:

(a) The person's physical incapacity, verified by a physician to the satisfaction of the department to be of a nature that would prevent the person from making the appropriate request or attending the hearing.

(b) A death in the immediate family of the person, verified to the satisfaction of the department.

(c) An error of the department.

(d) The inability of a subpoenaed police officer to appear due to the officer's illness, vacation or official duty conflicts. The department shall set forth by rule the conditions that constitute "official duty conflicts." A hearing may not be rescheduled more than once for reasons described in this paragraph.

(e) A request for a change of administrative law judge under ORS 183.645.

(f) The inability of the person's attorney to appear due to the attorney's illness, vacation or scheduling conflict arising from other court or administrative hearing appearances. A hearing must be rescheduled no later than 45 days after the date of the original hearing and may not be rescheduled more than once for reasons described in this paragraph.

(g) Other just cause as defined by the department by administrative rule.

(2) A hearing held under this section is subject to the same provisions as a hearing held under ORS 813.410, except that the department is not required to hold the hearing and make the determination within the time required by ORS 813.410.

(3) The granting of a hearing under this section shall not delay the imposition of a suspension under ORS 813.410 within the time required under ORS 813.410. However, if a person establishes that the person was deprived by either department error or a subpoenaed police officer's illness, vacation or official duty conflicts of an opportunity to appear at a hearing, the department shall rescind the suspension and shall promptly schedule a subsequent hearing to determine the validity of the suspension under ORS 813.410. In other cases under this section, when the department is unable to hold the hearing within the time required by ORS 813.410, the department shall rescind any suspension imposed under ORS 813.410 only if the department determines, at a hearing held under this section, that the suspension was not valid as described under ORS 813.410.

(4) The following apply to this section:

(a) The department shall issue a final order within 10 days after the hearing described in this section.

(b) If the department has rescinded a suspension under subsection (3) of this section and if the department, at the hearing described in this section, determines that the suspension is valid as described under ORS 813.410, the department shall reinstate the suspension effective five days after the final order is issued.

(c) Notwithstanding ORS 809.430, no additional notice or order of suspension need be given. [1985 c.16 §169; 1985 c.672 §14; 1987 c.272 §5; 1993 c.600 §2; 1999 c.831 §1; 2001 c.294 §§9,10; 2003 c.75 §68; 2009 c.520 §1]

813.450 Appeal from suspension for refusal or failure of breath test. (1) The petition to the circuit court appealing an order of the Department of Transportation after a hearing under ORS 813.410 shall state the nature of the petitioner's interest and the ground or grounds upon which the petitioner contends the order should be reversed or remanded.

(2) The court shall conduct the review without a jury. Review shall be limited to the record of the department's hearing.

(3) Any party to the proceedings before the circuit court may appeal from the judgment of the court to the Court of Appeals.

(4) Upon review in the circuit court and Court of Appeals, the court may affirm, reverse or remand the order as follows:

(a) If the court finds that the department has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(A) Set aside or modify the order; or

(B) Remand the case to the department for further action under a correct interpretation of the provision of law.

(b) The court shall remand the order to the department if it finds the department's exercise of discretion to be any of the following:

(A) Outside the range of discretion delegated to the agency by law.

(B) Inconsistent with a department rule, an officially stated department position, or a prior department practice, if the inconsistency is not explained by the department.

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if it finds that the order is not supported by substantial evidence in the record.

(5) Upon review, the court shall affirm the department's order unless the court finds a ground for setting aside, modifying or remanding to the department under a specified provision of this section.

(6) In any review under this section, the court shall also review de novo determinations made by an agency that are subject to ORS 183.650 (4). [1985 c.672 §23; 1999 c.849 §§196,197; 2003 c.75 §69]

813.460 Department procedures upon verification of suspension of driving privileges of wrong person. If the Department of Transportation verifies to its satisfaction that it has suspended the driving privileges of the wrong person under ORS 813.410 because a person arrested for driving under the influence of intoxicants gave false identification at the time of the arrest, all the following apply:

(1) The department shall immediately rescind the suspension order under the false name and shall issue a suspension order for the period set forth in ORS 813.420 to the person arrested.

(2) The department shall issue the order in the manner set forth in ORS 809.430.

(3) No further notice of suspension need be given.

(4) The time limitations in ORS 813.410 (1), (2), (3) and (4)(e) do not apply to a suspension order issued under this section. [1985 c.672 §25; 1989 c.636 §47]

813.470 Department notation on record of person acquitted after suspension. The Department of Transportation shall make a notation on the driving record of a person indicating that the person was acquitted of a charge of driving under the influence of intoxicants if:

(1) The person's driving privileges were suspended because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300;

(2) An accusatory instrument was filed charging the person with driving under the influence of intoxicants in violation of ORS 813.010 arising out of the same incident that led to the suspension of the person's driving privileges;

(3) The person was acquitted of the charge; and

(4) The person presents the department with a certified copy of the judgment of acquittal from the court clearly showing the location of the court, the date of the arrest and the findings of the court. [1987 c.303 §2; 1993 c.305 §8; 1995 c.568 §8]

813.500 [1983 c.338 §328; 1985 c.16 §145; 1987 c.801 §13; 1989 c.401 §2; 1991 c.557 §9; 1999 c.619 §13; 2003 c.23 §4; 2009 c.595 §1146; 2017 c.21 §88; 2017 c.319 §4; repealed by 2018 c.76 §1]

813.510 [1983 c.338 §329; 1985 c.16 §146; 1987 c.730 §21; 1987 c.801 §14; 1991 c.208 §5; 2003 c.23 §5; 2017 c.319 §5; repealed by 2018 c.76 §1]

(Hardship Permits)

813.520 Limitations on authority to issue hardship permit or reinstate driving privileges. The Department of Transportation may not reinstate any driving privileges or issue any hardship permit under ORS 807.240 as provided under any of the following:

(1) For a period of 90 days after the beginning of the suspension if the suspension is for refusal of a test under ORS 813.100 and the person is not subject to an increase in the time before a permit may be issued for reasons described in ORS 813.430.

(2) For a period of 30 days after the beginning of the suspension if the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is not subject to an increase in the time before a hardship permit may be issued for reasons described in ORS 813.430.

(3) For a period of one year after the beginning of the suspension if the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is subject to an increase in the time before a hardship permit may be issued for reasons described under ORS 813.430.

(4) For a period of three years after the beginning of the suspension if the suspension is for refusal of a test under ORS 813.100 and the person is subject to an increase in the time before a hardship permit may be issued for reasons described in ORS 813.430.

(5) To any person who has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle.

(6) If the suspension is based upon a conviction for a violation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100 to a person who has available public or private transportation sufficient to fulfill the person's transportation needs while the person is suspended.

(7) For a period of 30 days following imposition of suspension, if the person, within the previous year, has been convicted of a traffic crime and the suspension is based upon a conviction for violation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100. [1985 c.16 §148; 1985 c.672 §16; 1987 c.673 §1a; 1987 c.801 §15; 1989 c.224 §141; 1989 c.401 §3; 1993 c.305 §9; 1995 c.568 §9; 1999 c.1051 §91; 2005 c.140 §5; 2009 c.607 §1; 2018 c.76 §15]

IGNITION INTERLOCK DEVICES

813.599 Definitions. As used in ORS chapter 813:

(1) "Ignition interlock device technician" means an individual employed by a service center to install, service, maintain, calibrate or remove ignition interlock devices.

(2) "Manufacturer's representative" means a business entity:

(a) That is registered with or authorized by the Secretary of State to transact business in this state;

(b) That is designated by an ignition interlock device manufacturer to sell, rent or lease a specific ignition interlock device model in Oregon; and

(c) That provides statewide ignition interlock device service through the operation of a network of service centers.

(3) "Negative report" includes a report of tampering with an ignition interlock device, unauthorized removal of an ignition interlock device, lockout or a test violation recorded by an ignition interlock device.

(4) "Service center" means a private entity that installs, services, maintains, calibrates and removes ignition interlock devices in this state.

(5) "Test violation" means:

(a) For a person who is required to use an ignition interlock device as a condition of a driving while under the influence of intoxicants diversion agreement:

(A) An attempt to start a vehicle while the person has a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or

(B) Failure to pass a random retest due to a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples;

(b) For a person who is required to use an ignition interlock device and is not subject to a driving while under the influence of intoxicants diversion agreement:

(A) An attempt to start a vehicle while the person has a blood alcohol level higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes reg-

isters a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or

(B) Failure to pass a random retest due to a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or

(c) For any person required to use an ignition interlock device, a failure to take a random retest. [2017 c.655 §2; 2019 c.200 §3]

813.600 Ignition interlock program; rules. (1) The Department of State Police, in consultation with the Transportation Safety Committee, shall establish a program for the use of ignition interlock devices by persons convicted of driving while under the influence of intoxicants and granted hardship permits under ORS 807.240 and by persons who have entered into a driving while under the influence of intoxicants diversion agreement.

(2) The department shall adopt rules that specify requirements for ignition interlock devices that may be used and shall publish a list of devices that meet the requirements. The list may include devices that:

(a) Do not impede the safe operation of the vehicle;

(b) Have the fewest opportunities to be bypassed;

(c) Correlate well with established measures of alcohol impairment;

(d) Work accurately and reliably in an unsupervised environment;

(e) Require a deep lung breath sample or other accurate measure of blood alcohol content equivalence;

(f) Resist tampering and give evidence if tampering is attempted;

(g) Are difficult to circumvent, and require premeditation to do so;

(h) Minimize inconvenience to a sober user;

(i) Operate reliably over the range of automobile environments or automobile manufacturing standards;

(j) Are manufactured by a party who is adequately insured for product liability;

(k) Have a label affixed in a prominent location warning that any person tampering with, circumventing or otherwise misusing the device is subject to civil penalty; and

(L) If there is a test violation, record the locational coordinate information of the vehicle, including latitude and longitude as established by a global positioning system.

(3) The department shall adopt rules for the annual testing of ignition interlock devices. The rules shall establish standards for the devices and for the performance of the devices. [1987 c.746 §1; 1991 c.453 §14; 1993 c.382 §2; 2011 c.671 §1; 2017 c.655 §§7,19]

813.602 Circumstances under which ignition interlock device required; exemptions; rules. (1) Subject to subsection (2) of this section, when a person is convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation, in addition to any other requirement, shall require that the person have installed and be using an approved ignition interlock device in any vehicle operated by the person:

(a) Before the person is eligible for a hardship permit. The requirement is a condition of the hardship permit for the duration of the hardship permit.

(b) For a first conviction, for one year after the ending date of the suspension or revocation caused by the conviction. Violation of the condition imposed under this paragraph is a Class A traffic violation.

(c) For a second or subsequent conviction, for two years after the ending date of the suspension or revocation caused by the conviction. Violation of the condition imposed under this paragraph is a Class A traffic violation.

(2) When a person is convicted of a crime or multiple crimes as described in this subsection, the department, in addition to any other requirement, shall require that the person have installed and be using an approved ignition interlock device in any vehicle operated by the person for five years after the ending date of the longest running suspension or revocation caused by any of the convictions. Violation of the condition imposed under this subsection is a Class A traffic violation. A person is subject to this subsection when the person is convicted of:

(a) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance and any of the following crimes as part of the same criminal episode:

(A) Any degree of murder.

(B) Manslaughter in the first or second degree.

(C) Criminally negligent homicide.

(D) Assault in the first degree.

(b) Aggravated vehicular homicide.

(c) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance and the person's driving privileges are revoked under ORS 809.235 (1)(b) and later ordered restored under ORS 809.235 (4).

(3)(a) Except as provided in paragraph (c) of this subsection, as a condition of a driving while under the influence of intoxicants diversion agreement:

(A) The court shall require that an approved ignition interlock device be installed and used in any vehicle operated by the person during the period of the agreement when the person has driving privileges if:

(i) A chemical test of the person's breath or blood disclosed a blood alcohol content of 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood;

(ii) The person refused to submit to a chemical test of the person's breath or blood; or

(iii) A chemical test of the person's breath, blood or urine disclosed a blood alcohol content of more than 0.00 but less than 0.08 percent by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood and disclosed the presence of cannabis, a controlled substance or an inhalant.

(B) The court may require that an approved ignition interlock device be installed and used in any vehicle operated by the person during the period of the agreement when the person has driving privileges if the person submitted to a chemical test of the person's breath, blood or urine and the test disclosed a blood alcohol content below 0.08 percent by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood.

(b) In addition to any action taken under ORS 813.255, violation of the condition imposed under this subsection is a Class A traffic violation.

(c) A court may exempt a person from the condition in a diversion agreement to have installed and be using an ignition interlock device if the court determines that the person meets the requirements for a medical exemption in accordance with rules adopted by the department under this section. A person granted a medical exemption under this paragraph shall carry proof of the medical exemption with the person while operating any vehicle.

(4) The department shall adopt rules permitting medical exemptions from the requirements of installation and use of an ignition interlock device under this section.

(5) When a person is required to install an ignition interlock device under subsection (2) of this section, the manufacturer's representative providing the device shall provide notice of any installation or removal of the device or any tampering with the device to:

(a) The supervising court or to the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025;

(b) The district attorney or the city prosecutor; and

(c) The Oregon State Police. [1987 c.746 §2; 1989 c.576 §1; 1991 c.453 §15; 1993 c.382 §3; 1993 c.627 §6; 1999 c.770 §7; 2001 c.786 §4; 2003 c.26 §1; 2007 c.655 §1; 2009 c.599 §26; 2011 c.671 §2; 2012 c.66 §1; 2013 c.315 §1; 2015 c.251 §1; 2015 c.577 §11; 2017 c.21 §89; 2017 c.655 §11; 2019 c.200 §4; 2019 c.475 §10a]

813.603 Waiver of costs of ignition interlock device; rules. (1) Except as provided in subsection (2) of this section, if an ignition interlock device is ordered or required under ORS 813.602, the person so ordered or required shall pay to the manufacturer's representative the reasonable costs of leasing, installing and maintaining the device. A payment schedule may be established for the person by the Department of State Police, in consultation with the Transportation Safety Committee.

(2) The department may waive, in whole or in part, or defer the person's responsibility to pay all or part of the costs under subsection (1) of this section if the person meets the criteria for indigence established for waiving or deferring such costs under subsection (3) of this section. If the person's responsibility for costs is waived, then notwithstanding ORS 813.270, the costs described in subsection (1) of this section must be paid from the Intoxicated Driver Program Fund.

(3) The department, by rule, shall establish criteria and procedures for qualification to waive or defer costs described under subsection (1) of this section for indigence. The criteria must be consistent with the standards for indigence adopted by the federal government for purposes of the Supplemental Nutrition Assistance Program. [2015 c.577 §7; 2017 c.655 §§12,20; 2019 c.200 §§8,9]

Note: 813.603 was added to and made a part of ORS chapter 813 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

813.604 Notice of court order; notation on hardship permit; rules. (1) When a court orders installation of an ignition interlock device pursuant to ORS 813.602, the court shall send a copy of the order to the Department of Transportation. The department shall note the requirement on the driving record of the person required to install the device.

(2) The department may not issue a hardship permit under ORS 807.240 to any person who is ordered to install an ignition interlock device on the person's vehicle until the person furnishes the department satisfactory proof that the device has been installed on any vehicle owned or operated by the person. The department shall determine by rule what constitutes satisfactory proof under this subsection.

(3) When the department issues a hardship permit to a person who is required to have an ignition interlock device, the department shall note on the permit that the device is required. The notation constitutes a limitation on the permit and a person who violates the limitation is punishable as provided in ORS 811.182 for criminal driving while suspended or revoked. [1987 c.746 §3; 1989 c.398 §2; 1997 c.249 §235]

813.606 Exception for employee otherwise required to have device. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the person's employment, to operate a motor vehicle owned by the person's employer, the person may operate that vehicle without installation of an ignition interlock device if:

(1) The employer has been notified:

(a) That the employee is operating with a hardship permit restricted as provided in ORS 813.604;

(b) That the employee is operating on a fully reinstated license within the first year following suspension or revocation for the employee's first conviction of driving while under the influence of intoxicants;

(c) That the employee is operating on a fully reinstated license within the second year following suspension or revocation for the employee's second or subsequent conviction of driving while under the influence of intoxicants; or

(d) That the employee has driving privileges and is otherwise required to install an ignition interlock device as a condition of a driving while under the influence of intoxicants diversion agreement; and

(2) The employee has proof of the notification and, if applicable, a fully reinstated license in the possession of the employee while operating the employer's vehicle in the course of employment. [1987 c.746 §4; 1999 c.770 §8; 2001 c.786 §5; 2011 c.355 §17; 2013 c.315 §2]

813.608 Knowingly furnishing motor vehicle without ignition interlock device; penalty. (1) A person commits the offense of knowingly furnishing a motor vehicle without an ignition interlock device to someone who is not authorized to drive such a vehicle if the person rents, leases, lends or otherwise furnishes a motor vehicle to someone the person knows to have been ordered or required under ORS 813.602, to install an ignition interlock device, and the motor vehicle is not equipped with such a device that is in working order.

(2) The offense described in this section, knowingly furnishing a motor vehicle without an ignition interlock device to someone who is not authorized to drive such a vehicle, is a Class A traffic violation. [1987 c.746 §5; 1989 c.576 §2]

813.610 Soliciting another to blow into ignition interlock device; penalty. (1) A person commits the offense of unlawfully soliciting another to blow into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device if the person has such a device as a result of an order or requirement under ORS 813.602 and the person requests or solicits another to blow into the device or start the motor vehicle so as to circumvent the device.

(2) The offense described in this section, unlawfully soliciting another to blow into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device, is a Class A traffic violation. [1987 c.746 §6; 1989 c.576 §3]

813.612 Unlawfully blowing into ignition interlock device; penalty. (1) A person commits the offense of unlawfully blowing into an ignition interlock device or starting a motor vehicle equipped with an ignition interlock device if, for the purpose of providing an operable motor vehicle for someone required under ORS 813.602 to have such a device, the person blows into an ignition interlock device or starts an automobile equipped with the device.

(2) This section does not apply to a person who is required to have an ignition interlock device and who blows into or starts the person's own vehicle that is so equipped.

(3) The offense described in this section, unlawfully blowing into an ignition interlock device or starting a motor vehicle equipped with an ignition interlock device, is a Class A traffic violation. [1987 c.746 §7]

813.614 Tampering with ignition interlock device; penalty. (1) A person commits the offense of tampering with an ignition interlock device if the person does anything to a device that was ordered installed pursuant to ORS 813.602 that circumvents the operation of the device.

(2) The offense described in this section, tampering with an ignition interlock device, is a Class A traffic violation. [1987 c.746 §9]

813.616 Use of certain moneys to pay for ignition interlock program. Notwithstanding ORS 813.270, moneys in the Intoxicated Driver Program Fund may be used to

pay for administration and evaluation of the ignition interlock program established by ORS 813.600 to 813.616 and for the costs of participation in the program for indigents. [1987 c.746 §8; 1993 c.382 §4]

813.620 Suspension of driving privileges for failing to provide proof of device installation or for tampering with device. (1) At the end of the suspension or revocation resulting from a conviction for driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation shall suspend the driving privileges or right to apply for driving privileges of a person who has not submitted proof to the department that an ignition interlock device has been installed in any vehicle operated by the person or who tampers with an ignition interlock device after it has been installed.

(2) Subject to ORS 813.635, if the department imposes a suspension under subsection (1) of this section for failing to submit proof of installation, the suspension continues until the department receives proof that the ignition interlock device has been installed. If the department does not receive proof that the ignition interlock device has been installed, the suspension shall continue for:

(a) One year after the ending date of the suspension resulting from the first conviction;

(b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the suspension resulting from a second or subsequent conviction; or

(c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in ORS 813.602 (2).

(3) Subject to ORS 813.635, if the department imposes a suspension under subsection (1) of this section for tampering with an ignition interlock device, the suspension continues until:

(a) One year after the ending date of the suspension resulting from the first conviction;

(b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the suspension resulting from a second or subsequent conviction; or

(c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in ORS 813.602 (2).

(4) A person whose driving privileges or right to apply for privileges is suspended under subsection (1) of this section is entitled to administrative review, as described in ORS 809.440. [2015 c.577 §8; 2015 c.577 §12]

813.630 Notice of ignition interlock device installation and negative reports. (1) This section applies only to a person who has had an ignition interlock device installed as a condition of a driving while under the influence of intoxicants diversion agreement under ORS 813.602 (3).

(2) After an ignition interlock device is installed, the manufacturer's representative that installed the device shall notify:

(a) The court that required the device to be installed or the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025; and

(b) The district attorney or city prosecutor.

(3) Notice of the installation must be given within seven business days of installing the ignition interlock device.

(4) Each time a manufacturer's representative has access to an ignition interlock device that the manufacturer's representative installed, the manufacturer's representative shall download all reports recorded on the device. If the manufacturer's representative downloads a negative report, the manufacturer's representative shall submit the negative report, in a form prescribed by rule by the department, to:

(a) The court that required the device to be installed or the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025;

(b) The district attorney or city prosecutor; and

(c) The Department of State Police.

(5) The manufacturer's representative shall submit a negative report as provided in subsection (4) of this section within seven business days of downloading the report. [2015 c.577 §2; 2017 c.655 §8; 2019 c.200 §10]

813.635 Consequence for negative reports generated from ignition interlock device; rules. (1) Notwithstanding ORS 813.602 (1)(b) or (c), (2) or (3), the requirement to have an ignition interlock device installed in a vehicle continues until the person submits to the Department of Transportation a certificate from the ignition interlock device manufacturer's representative stating that the device did not record a negative report for the last 90 consecutive days of the required installation period. The department shall remove the ignition interlock device requirement from the person's driving record as soon as practicable after the department receives the certificate.

(2) Except as provided in subsection (3) of this section, if there is a negative report

during the last 90 consecutive days, the person shall continue to use an ignition interlock device beyond the period required under ORS 813.602 (1)(b) or (c), (2) or (3) until the person submits a certificate, in a form prescribed by rule by the department, to the department from the ignition interlock device manufacturer's representative stating that the device has not recorded a negative report for 90 consecutive days, beginning on the date of the most recent negative report.

(3) If there is a negative report during the last 90 consecutive days that the person believes is in error, the person may request that the Department of State Police review the negative report. The department shall adopt rules prescribing the form and manner for submitting a request under this subsection. If after review the department determines that the negative report was the result of an error, the department shall correct the report and submit a corrected report to the person or shall direct the manufacturer's representative to correct the report and the manufacturer's representative shall submit the corrected report to the person.

(4) This section does not apply to a defendant who is granted an order to vacate the requirement to install an ignition interlock device under ORS 813.645. [2015 c.577 §3; 2017 c.655 §13; 2019 c.200 §15]

813.640 Additional treatment following negative reports. In addition to any other requirement to participate in an alcohol or drug treatment program required by law, if a court receives at least two negative reports, a court may order that the defendant complete, at the defendant's own expense based on the defendant's ability to pay, an alcohol or drug treatment program. [2017 c.655 §10]

813.645 Motion to vacate requirement to install and use ignition interlock device. (1) A defendant may apply by motion to the court in which a driving while under the influence of intoxicants diversion agreement described in ORS 813.230 was entered for an order vacating the requirement to install and use an ignition interlock device if the defendant:

(a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for at least six consecutive months and provides a certificate to the court from the ignition interlock device manufacturer's representative stating that the device has not recorded a negative report; and

(b) The defendant has entered into and is in compliance with any treatment program that the person is required to participate in as a condition of diversion.

(2) The defendant shall cause to be served on the district attorney or city prosecutor a copy of the motion for an order vacating the requirement to install and use an ignition interlock device under ORS 813.602 (3). The copy of the motion shall be served on the district attorney or city prosecutor at the time the motion is filed with the court. The district attorney or city prosecutor may contest the motion.

(3) The court shall hold a hearing on a petition filed in accordance with subsection (1) of this section. In determining whether to grant the petition, the court shall consider:

(a) The nature of the underlying crime for which driving privileges were suspended.

(b) The blood alcohol content of the defendant at the time of the arrest.

(c) Any other relevant factors.

(4) The court may vacate a defendant's requirement to install and use an ignition interlock device under ORS 813.602 (3) if, after a hearing described in subsection (3) of this section, the court finds by a preponderance of the evidence that the petitioner:

(a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for at least six consecutive months with no negative reports; and

(b) Has entered into and is in compliance with any treatment program required as a condition of diversion.

(5) When a court vacates a defendant's requirement to install and use an ignition interlock device under ORS 813.602 (3), the court shall notify the Department of Transportation. [2015 c.577 §4; 2017 c.655 §14; 2019 c.200 §7]

813.660 Service center and manufacturer's representative certification; fees; rules. (1) A service center or manufacturer's representative may not operate a service center in Oregon unless both the service center and the manufacturer's representative obtain a certificate from the Department of State Police.

(2) A service center and a manufacturer's representative may apply to the department for a certificate under this section. The application shall be in such form as may be specified by the department.

(3) The department may issue a certificate to a manufacturer's representative if the applicant:

(a) Meets all of the requirements established by this section and the rules adopted by the department;

(b) Agrees to provide testimony relating to any aspect of the installation, service, monitoring, maintenance, calibration, use,

removal or performance of the ignition interlock device at any criminal proceeding or administrative hearing;

(c) Provides service centers statewide, as defined by the department by rule;

(d) Provides 24-hour telephone assistance to customers; and

(e) Pays all required fees.

(4) The department may issue a certificate to a service center if the applicant:

(a) Meets all of the requirements established by this section and the rules adopted by the department;

(b) Utilizes ignition interlock device technicians who meet the minimum standards for qualification as a technician established by the department by rule and who undergo a criminal background check under ORS 813.665; and

(c) Pays all required fees.

(5) The department may adopt rules establishing additional requirements for issuance and renewal of certificates under this section.

(6) The department may refuse to issue or renew or may suspend or revoke any certificate issued under this section in any case where the department finds that the applicant or certificate holder has violated or failed to comply with any rules adopted under this section.

(7) A service center or manufacturer's representative shall pay fees to the department in accordance with a fee schedule established by the department by rule.

(8) The fees charged under this section shall be in an amount adequate to pay all administrative costs incurred by the department in administering ORS 813.660 to 813.680.

(9) Certificates issued under this section are subject to the following:

(a) A certificate shall expire one year from the date of issuance unless renewed according to the rules of the department.

(b) The department may not issue or renew a certificate to a service center or manufacturer's representative unless the service center or manufacturer's representative has paid all required fees under this section.

(c) A fee for a certificate may not be refunded in the event any certificate is refused, suspended or revoked.

(10) The department may adopt rules for the implementation and administration of ORS 813.660 to 813.680. [2017 c.655 §3; 2017 c.655 §15; 2019 c.200 §§1,2]

813.665 Criminal background check for technicians; rules. (1) A criminal background check is required to determine the eligibility of a person seeking employment as an ignition interlock device technician in this state. A service center shall conduct a fingerprint-based criminal background check before hiring or contracting with an individual as an ignition interlock device technician. The service center shall request that the Department of State Police conduct the fingerprint-based criminal background check by reviewing state and federal databases including, but not limited to, the:

(a) Oregon computerized criminal history system;

(b) Law Enforcement Data System;

(c) Databases maintained by the Federal Bureau of Investigation; and

(d) National Crime Information Center.

(2) The purpose of a criminal background check is to preserve safety and prevent criminal acts by determining whether an individual is eligible to be employed as an ignition interlock device technician. A person is ineligible if the person has been convicted of:

(a) Except as provided in paragraph (b) of this subsection, a misdemeanor in any jurisdiction within two years of the date of the criminal background check;

(b) Misdemeanor driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart in another jurisdiction within five years of the date of the criminal background check; or

(c) A felony in any jurisdiction within 10 years of the date of the criminal background check.

(3) The department shall communicate whether the individual passed or failed the criminal background check conducted under this section to the service center requesting the check.

(4) The department shall prescribe by rule the process for obtaining a criminal background check by the department or, if the department is unable to conduct the check, by the service center requesting the criminal background check.

(5) If the criminal background check conducted by the department or a service center reveals that the individual who is the subject of the criminal background check has been convicted of any of the crimes described in subsection (2) of this section, the service center may not employ the individual as an ignition interlock device technician. [2017 c.655 §4; 2017 c.655 §16; 2019 c.200 §§5,6]

813.670 Complaint process. The Department of State Police shall adopt a procedure for a person to file a complaint with the department concerning the failure of a service center or manufacturer's representative to comply with a requirement of ORS 813.660 to 813.680. The department shall:

(1) Provide a response to the complainant no later than 14 days after the date the complaint is filed;

(2) Complete an investigation of the complaint no later than 90 days after the date the complaint is filed; and

(3) Provide a written report of the results of the investigation to the service center or manufacturer's representative and to the complainant. [2017 c.655 §5; 2017 c.655 §17; 2019 c.200 §§11,12]

813.680 Ignition Interlock Device Management Fund. (1) The Ignition Interlock Device Management Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Ignition Interlock Device Management Fund shall be credited to the fund.

(2) Moneys in the Ignition Interlock Device Management Fund consist of:

(a) Fees collected under ORS 813.660 for issuance or renewal of certificates under ORS 813.660;

(b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Interest and other earnings on moneys in the fund; and

(d) Other amounts deposited in the fund from any source.

(3) Moneys in the fund are continuously appropriated to:

(a) The Department of Transportation for the purpose of fulfilling the department's duties, functions and powers related to specifying requirements for ignition interlock devices as required under ORS 813.600; and

(b) The Department of State Police for the purpose of carrying out the regulatory functions of the department relating to service centers and manufacturer's representatives, as described in ORS 813.599 and 813.660 to 813.680. [2017 c.655 §6; 2017 c.655 §18; 2019 c.200 §§13,14]

Chapter 814

2019 EDITION

Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels

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PEDESTRIANS

(Traffic Control Devices)

814.010 Appropriate responses to traffic control devices. This section establishes appropriate pedestrian responses to specific traffic control devices for purposes of ORS 814.020. Authority to place traffic control devices is established under ORS 810.210. Except when acting under the direction of a police officer, a pedestrian is in violation of ORS 814.020 if the pedestrian makes a response to a traffic control device that is not permitted under the following:

(1) A pedestrian facing a traffic control device with a green light may proceed across the roadway within any marked or unmarked crosswalk unless prohibited from doing so by other traffic control devices.

(2) A pedestrian facing a traffic control device with a green arrow signal light may proceed across the roadway within any marked or unmarked crosswalk unless prohibited from doing so by other traffic control devices.

(3) A pedestrian facing a traffic control device with a steady yellow light shall not enter the roadway unless otherwise directed by a pedestrian control signal.

(4) A pedestrian facing a traffic control device with a steady red light shall not enter the roadway unless otherwise directed by a pedestrian control signal.

(5) If a traffic control device is erected and maintained at a place other than an intersection, the provisions of this section are applicable.

(6) When a pedestrian control signal showing the words "Walk" and "Wait" or "Don't Walk" or any other pedestrian symbol approved by the Oregon Transportation Commission under ORS 810.200 and 810.210 for the purpose of controlling pedestrian crossing is in place, the signal indicates and applies as follows:

(a) If a pedestrian is facing a "Walk" signal or other symbol approved under ORS 810.200 and 810.210 indicating that the pedestrian may proceed, the pedestrian may proceed across the roadway in the direction of the signal.

(b) A pedestrian shall not start to cross the roadway in the direction of a signal showing a "Wait" or "Don't Walk" or any other symbol approved under ORS 810.200 and 810.210 indicating that the pedestrian may not proceed. A pedestrian who has started crossing a roadway on a signal showing "Walk" or any other approved symbol to proceed shall proceed with dispatch to a sidewalk or safety island while a signal is showing "Wait" or "Don't Walk" or any other approved symbol indicating not to proceed. [1983 c.338 §553; 1985 c.16 §282]

814.020 Failure to obey traffic control device; penalty. (1) A pedestrian commits the offense of pedestrian failure to obey traffic control devices if the pedestrian does any of the following:

(a) Fails to obey any traffic control device specifically applicable to the pedestrian.

(b) Fails to obey any specific traffic control device described in ORS 814.010 in the manner required by that section.

(2) A pedestrian is not subject to the requirements of this section if the pedestrian complies with directions of a police officer.

(3) The offense described in this section, pedestrian failure to obey traffic control devices, is a Class D traffic violation. [1983 c.338 §552; 1995 c.383 §82]

814.030 Failure to obey bridge or railroad signal; penalty. (1) A pedestrian commits the offense of pedestrian failure to obey bridge or railroad signal if the pedestrian does any of the following:

(a) Enters or remains upon a bridge or approach to a bridge beyond the bridge signal, gate or barricade after a bridge operation signal has been given.

(b) Passes through, around, over or under any crossing gate or barrier at a bridge or railroad grade crossing while the gate or barrier is closed or being opened or closed.

(2) The offense described in this section, pedestrian failure to obey bridge or railroad signal, is a Class D traffic violation. [1983 c.338 §554; 1995 c.383 §83]

(Pedestrian Yield)

814.040 Failure to yield to vehicle; penalty. (1) A pedestrian commits the offense of pedestrian failure to yield to a vehicle if the pedestrian does any of the following:

(a) Suddenly leaves a curb or other place of safety and moves into the path of a vehicle that is so close as to constitute an immediate hazard.

(b) Fails to yield the right of way to a vehicle upon a roadway when the pedestrian is crossing the roadway at any point other than within a marked crosswalk or an unmarked crosswalk at an intersection.

(c) Except as otherwise provided under the vehicle code, fails to yield the right of way to all vehicles upon the roadway.

(2) The offense described in this section, pedestrian failure to yield to a vehicle, is a Class D traffic violation. [1983 c.338 §555; 1995 c.383 §84]

814.050 Failure to yield to ambulance or emergency vehicle; penalty. (1) A pedestrian commits the offense of pedestrian failure to yield to an ambulance or emergency vehicle if the pedestrian does not yield the right of way to:

(a) An ambulance used in an emergency situation; or

(b) An emergency vehicle or an ambulance upon the approach of the vehicle using a visual signal or audible signal or both according to requirements under ORS 820.300 or 820.320.

(2) This section does not relieve the driver of an ambulance or emergency vehicle from the duty to:

(a) Drive with due regard for the safety of all persons using the highway; and

(b) Exercise due care to avoid colliding with any pedestrian.

(3) The offense described in this section, pedestrian failure to yield to an ambulance or emergency vehicle, is a Class D traffic violation. [1983 c.338 §556; 1995 c.209 §4; 1995 c.383 §85]

(Roadway Use)

814.060 Failure to use pedestrian tunnel or overhead crossing; penalty. (1) A pedestrian commits the offense of failure to use pedestrian tunnel or overhead crossing if the pedestrian crosses a roadway other than by means of a pedestrian tunnel or overhead pedestrian crossing when a tunnel or overhead crossing serves the place where the pedestrian is crossing the roadway.

(2) The offense described in this section, failure to use pedestrian tunnel or overhead crossing, is a Class D traffic violation. [1983 c.338 §557]

814.070 Improper position upon or improperly proceeding along highway; exceptions; penalty. (1) A pedestrian commits the offense of pedestrian with improper position upon or improperly proceeding along a highway if the pedestrian does any of the following:

(a) Takes a position upon or proceeds along and upon the roadway where there is an adjacent usable sidewalk or shoulder.

(b) Does not take a position upon or proceed along and upon the shoulder, as far as practicable from the roadway edge, on a highway that has an adjacent shoulder area on one or both sides.

(c) Except in the case of the divided highway, does not take a position upon or proceed along and upon the left shoulder and as far as practicable from the roadway edge on a two-way highway that has no sidewalk and that does have an adjacent shoulder area. This paragraph does not apply to:

(A) A hitchhiker who takes a position upon or proceeds along and upon the right shoulder so long as the hitchhiker does so facing the vehicles using the adjacent lane of the roadway; or

(B) A member of a group that has adopted that section of highway under the provisions of ORS 366.158 who is obeying the rules of the Department of Transportation for picking up litter or removing noxious weeds on either side of the roadway.

(d) Does not take a position upon or proceed along and upon the right highway shoulder, as far as practicable from the roadway edge, on a divided highway that has no sidewalk and does have a shoulder area. This paragraph does not apply to a member of a group that has adopted that section of highway under the provisions of ORS 366.158 who is obeying the rules of the Department of Transportation for picking up litter or removing noxious weeds on either side of the roadway.

(e) Fails to take a position upon or proceed along and upon a highway that has neither sidewalk nor shoulder available, as near as practicable to an outside edge of the roadway, and, if the roadway is a two-way roadway, only on the left side of it.

(2) This section is subject to the provisions of ORS 814.100.

(3) A pedestrian does not commit the offense of pedestrian with improper position upon or improperly proceeding along a highway if the pedestrian:

(a) Does not impede traffic or create a traffic hazard;

(b) Posts advance warning signs in compliance with standards adopted by the Oregon Transportation Commission under ORS 810.200;

(c) Wears high-visibility safety apparel in compliance with standards adopted by the Oregon Transportation Commission under ORS 810.200; and

(d) Has a permit or belongs to a group that has a permit issued under ORS 814.072.

(4) A pedestrian does not commit the offense of pedestrian with improper position upon or improperly proceeding along a highway when the pedestrian is on a narrow residential roadway if:

(a) The pedestrian does not create a traffic hazard; and

(b) Signs are posted giving notice that pedestrians may be present upon or along the narrow residential roadway. Signs posted under this paragraph shall be posted at each end of the portion of the narrow residential roadway where pedestrians may be present.

(5) The offense described in this section, pedestrian with improper position upon or improperly proceeding along a highway, is a Class D traffic violation. [1983 c.338 §558; 1991 c.486 §4; 1995 c.383 §86; 2008 c.47 §§1,2; 2009 c.547 §§2,3; 2011 c.507 §3; 2013 c.474 §1]

814.072 Issuance of permit to be upon or to proceed along highway. (1) A road authority may issue a permit that authorizes a pedestrian or a group to be positioned upon or to proceed along a highway if the pedestrian or group shows to the satisfaction of the road authority:

(a) Proof of liability insurance in an amount of not less than $1 million; and

(b) That the pedestrian or group will meet the public safety requirements adopted by the Department of Transportation by rule.

(2) Upon issuance of a permit, the permit holder shall provide a copy of the permit to any applicable local jurisdiction. [2008 c.47 §5]

Note: 814.072 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 814 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

814.080 Unlawful hitchhiking; penalty. (1) A person commits the offense of unlawful hitchhiking if the person is on a roadway for the purpose of soliciting a ride.

(2) The offense described in this section, unlawful hitchhiking, is a Class D traffic violation. [1983 c.338 §559; 1995 c.383 §87]

814.090 [1983 c.338 §560; 1995 c.383 §88; 1999 c.932 §1; repealed by 2005 c.63 §1]

814.092 [1999 c.932 §2; repealed by 2005 c.63 §1]

(Miscellaneous Rights)

814.100 Rights of driver and passengers of disabled vehicle on freeway. On a freeway on which pedestrian traffic is prohibited, the driver and passengers of a disabled vehicle stopped on the freeway may walk to the nearest exit, in either direction, on that side of the freeway upon which the vehicle is disabled, from which telephone or motor vehicle repair services are available. [1983 c.338 §561]

814.110 Rights for persons who are blind, who are deaf-blind or who have limited vision. (1) The following definitions apply to this section and to ORS 811.035 and 814.120:

(a) "Blind" means visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or having a visual field of 20 degrees or less.

(b) "Dog guide" means a dog that is wearing a dog guide harness and is trained to lead or guide a person who is blind.

(c) "Limited vision" means visual acuity that does not exceed 20/70 and is no worse than 20/200 in the better eye with corrective lenses.

(d) "White cane" means a cane or walking stick that is white in color or white with a red tip.

(2) This section and ORS 811.035 and 814.120 grant and enforce the following rights for pedestrians who are blind or deaf-blind:

(a) A person who has limited vision and a person who is blind or deaf-blind may carry and use a white cane on the highways and other public places of this state for the purposes of identification and mobility.

(b) A person who has limited vision and a person who is deaf-blind may use a white cane marked by a six-inch-wide chartreuse-colored strip at the tip end.

(3) A pedestrian who has limited vision and a pedestrian who is blind or deaf-blind and who is not carrying a white cane or not accompanied by a dog guide has all the rights and privileges granted by law to all pedestrians. [1985 c.16 §284; 2007 c.70 §344; 2017 c.175 §1]

814.120 Unlawful use of white cane; penalty. (1) A person commits the offense of unlawful use of a white cane if the person uses or carries a white cane on the highways or any other public place of this state and the person is not a person who has limited vision or is not a person who is blind or a person who is deaf-blind.

(2) This section is subject to the provisions and definitions relating to the rights of pedestrians who have limited vision or pedestrians who are blind or deaf-blind under ORS 814.110.

(3) The offense described in this section, unlawful use of a white cane, is a Class D traffic violation. [1983 c.338 §562; 1985 c.16 §285; 1995 c.383 §89; 2007 c.70 §345; 2017 c.175 §2]

PASSENGERS

814.130 Passenger obstruction of driver; penalty. (1) A person commits the offense of passenger obstruction of a driver if the person is a passenger in a vehicle and the person rides in a position that interferes with all of the operator's views to the rear, through one or more mirrors and otherwise, or that interferes with the operator's view to the front or sides or the operator's control of the driving mechanism.

(2) The offense described in this section, passenger obstruction of driver, is a Class C traffic violation. [1983 c.338 §605]

LIVESTOCK

814.140 Application of vehicle laws to animal on roadway. Every person riding an animal upon a roadway and every person driving or leading any animal is subject to the provisions of the vehicle code concerning vehicle equipment and operation of vehicles except those provisions which by their very nature can have no application. [1983 c.338 §665]

814.150 Failure to perform duties of person in charge of livestock on highway; penalty. (1) A person commits the offense of failure to perform the duties of a person in charge of livestock on a highway if the person fails to do any of the following:

(a) When riding or leading a horse or other livestock on the highway, a person must keep a lookout for vehicles and use caution to keep the animal under control.

(b) A person in charge of driving a herd of livestock on or across a highway shall position a person at the front of the herd to warn drivers that the herd is approaching.

(c) A person in charge of livestock being driven on a highway shall use reasonable care and diligence to open the roadway for vehicular traffic.

(d) If a horse or other livestock becomes frightened on a highway, the person riding or leading the livestock shall give a distress signal to an approaching driver by raising the person's hand.

(2) This section is only applicable if the livestock is an animal of the species of horses, mules, donkeys, cattle, swine, sheep or goats.

(3) The offense described in this section, failure to perform duties of a person in charge of livestock on a highway, is a Class B traffic violation. [1983 c.338 §667]

MOPEDS AND MOTORCYCLES

814.200 Unlawful operation of motorcycle or moped; penalty. (1) A person operating a moped or motorcycle commits the offense of unlawful moped or motorcycle operation if the person:

(a) Fails to sit astride, or to stand astride, the moped or motorcycle seat while facing forward; or

(b) Carries a package, bundle or other article that prevents the person from keeping both hands on the handlebars.

(2) The offense described in this section, unlawful moped or motorcycle operation, is a Class B traffic violation. [1983 c.338 §686; 1987 c.138 §6; 2015 c.502 §1]

814.210 Operation of moped on sidewalk or bicycle trail; penalty. (1) A person commits the offense of operation of a moped on a sidewalk or bicycle trail if the person operates a moped upon a sidewalk, a bicycle path or a bicycle lane.

(2) Exemptions to this section are provided under ORS 811.440.

(3) The offense described in this section, operation of a moped on a sidewalk or bicycle trail, is a Class D traffic violation. [1983 c.338 §644]

814.220 Motorcyclist clinging to another vehicle; penalty. (1) A person commits the offense of motorcyclist clinging to another vehicle if the person is riding upon a motorcycle that is not disabled and being towed and the person attaches a part of the person's self or the motorcycle to any other vehicle on a roadway.

(2) The offense described in this section, motorcyclist clinging to another vehicle, is a Class B traffic violation. [1983 c.338 §687; 1985 c.16 §330; 1995 c.383 §90]

814.230 Moped operator or rider clinging to other vehicle; penalty. (1) A person commits the offense of moped operator or rider clinging to another vehicle if the person is riding upon or operating a moped and the person clings to another vehicle upon a roadway or attaches the moped to any other vehicle upon a roadway.

(2) The offense described in this section, moped operator or rider clinging to another vehicle, is a Class D traffic violation. [1983 c.338 §688]

814.240 Motorcycle or moped unlawful passing; penalty. (1) A motorcycle operator or moped operator commits the offense of motorcycle or moped unlawful passing in a lane with a vehicle if the operator does any of the following:

(a) Overtakes and passes in the same lane occupied by the vehicle the operator is overtaking, unless the vehicle being passed is a motorcycle or a moped.

(b) Operates a moped or motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(2) This section does not apply to a police officer in the performance of official duties.

(3) The offense described in this section, motorcycle or moped unlawful passing in a lane with a vehicle, is a Class B traffic violation. [1983 c.338 §689]

814.250 Moped or motorcycle operating more than two abreast; penalty. (1) A person commits the offense of operating a moped or motorcycle more than two abreast if the person is operating a moped or motor-

cycle on a roadway laned for traffic and the person is riding abreast of more than one other motorcycle or moped in the same lane for traffic.

(2) For purposes of this section, a motorcycle does not include an autocycle.

(3) The offense described in this section, moped or motorcycle operating more than two abreast, is a Class B traffic violation. [1983 c.338 §690; 2017 c.296 §3]

814.260 Failure of moped operator to wear motorcycle helmet; penalty. (1) A person commits the offense of failure of a moped rider to wear a motorcycle helmet if the person:

(a) Operates or rides on a moped; and

(b) Is not wearing a motorcycle helmet.

(2) Exemptions from this section are established under ORS 814.290.

(3) This section does not permit passengers on mopeds in violation of ORS 814.330 or 814.340.

(4) The offense described in this section, failure of a moped rider to wear a motorcycle helmet, is a Class D traffic violation. [1983 c.338 §691; 1985 c.16 §331; 1987 c.910 §4; 1995 c.492 §3]

814.269 Failure of motorcycle operator to wear motorcycle helmet; penalty. (1) A person commits the offense of failure of a motorcycle operator to wear a motorcycle helmet if the person operates a motorcycle and is not wearing a motorcycle helmet.

(2) Exemptions from this section are established in ORS 814.290.

(3) The offense described in this section, failure of a motorcycle operator to wear a motorcycle helmet, is a Class D traffic violation. [1987 c.910 §2; 1995 c.492 §4]

814.270 [1983 c.338 §696; 1985 c.16 §333; repealed by 1987 c.910 §7]

814.275 Failure of motorcycle passenger to wear motorcycle helmet; penalty. (1) A person commits the offense of failure of a motorcycle passenger to wear a motorcycle helmet if the person rides as a passenger on a motorcycle and is not wearing a motorcycle helmet.

(2) Exemptions from this section are established in ORS 814.290.

(3) The offense described in this section, failure of a motorcycle passenger to wear a motorcycle helmet, is a Class D traffic violation. [1987 c.910 §3; 1989 c.283 §1; 1995 c.492 §5]

814.280 Endangering motorcycle passenger; penalty. (1) A person commits the offense of endangering a motorcycle passenger if the person is operating a motorcycle and the person carries another person on the motorcycle who is not wearing a motorcycle helmet.

(2) Exemptions from this section are established under ORS 814.290.

(3) The offense described in this section, endangering a motorcycle passenger, is a Class D traffic violation. [1983 c.338 §692; 1987 c.910 §5; 1995 c.492 §6]

814.290 Exemptions from motorcycle helmet requirements. This section establishes exemptions from the requirements and penalties relating to the use of motorcycle helmets under ORS 814.260 to 814.280. A person is not in violation of ORS 814.260, 814.269, 814.275 or 814.280 if the person is any of the following:

(1) Within an enclosed cab.

(2) Operating or riding a vehicle designed to travel with three wheels in contact with the ground at speeds of less than 15 miles per hour. [1983 c.338 §693; 1987 c.910 §6; 1995 c.492 §7]

814.300 [1983 c.338 §694; repealed by 1999 c.179 §1]

814.310 Illegal alteration of moped; penalty. (1) A person commits the offense of illegal alteration of a moped if the person alters or modifies in any manner a vehicle registered in this state so that:

(a) The displacement of the engine is increased beyond that allowable for a moped under ORS 801.345; or

(b) The vehicle is capable of moving, unassisted, at a speed of more than 30 miles per hour on a level road surface.

(2) The offense described in this section, illegal alteration of a moped, is a Class C traffic violation. [1983 c.338 §285; 1985 c.16 §117; 1985 c.401 §13]

814.320 Failure to display lighted headlights; exceptions; penalty. (1) A person commits the offense of failure to display lighted headlights on a moped or motorcycle at all times, if the person operates a moped or motorcycle and does not display lights and illuminated devices specified under ORS 816.320 and 816.330 at all times the motorcycle or moped is upon a highway.

(2) A person may use modulating headlights described under ORS 816.050 during daylight without violating this section, but a person who uses such modulating headlights during limited visibility conditions is in violation of this section.

(3) This section does not apply when specific exceptions with respect to parked vehicles are made under ORS 811.525.

(4) A court may dismiss, without penalty, any charge for violation of this section if the court determines that:

(a) The violation was caused by a malfunction of equipment; and

(b) The equipment that malfunctioned and caused the violation has been repaired or replaced.

(5) The offense described in this section, failure to display lighted headlights on a moped or motorcycle at all times, is a Class B traffic violation. [1983 c.338 §695; 1985 c.16 §332]

814.325 Carrying passenger on motorcycle; penalty. (1) A person commits the offense of unlawfully carrying a passenger on a motorcycle if the person does any of the following:

(a) Carries on a motorcycle a person who is not seated on a permanent and regular seat, if the motorcycle is designed to carry more than one person, or upon another seat attached to the motorcycle at the rear or side of the operator's seat.

(b) Carries a person in a position that interferes with the operation or control of the motorcycle or the operator's view.

(c) Carries a person, other than in a sidecar or enclosed cab, on a motorcycle with no footrests for that person.

(2) The offense described in this section, unlawfully carrying a passenger on a motorcycle, is a Class B traffic violation. [1987 c.138 §8]

814.330 Carrying passenger on moped; penalty. (1) A person commits the offense of unlawfully carrying a passenger on a moped if the person operates a moped on any highway of this state with a passenger on the moped.

(2) The offense described in this section, unlawfully carrying a passenger on a moped, is a Class D traffic violation. [Formerly 487.743]

814.340 Riding as passenger on moped; penalty. (1) A person commits the offense of unlawfully riding as a passenger on a moped if the person rides any moped as a passenger on a highway of this state.

(2) The offense described in this section, unlawfully riding as a passenger on a moped, is a Class D traffic violation. [Formerly 487.746]

BICYCLES

814.400 Application of vehicle laws to bicycles. (1) Every person riding a bicycle upon a public way is subject to the provisions applicable to and has the same rights and duties as the driver of any other vehicle concerning operating on highways, vehicle equipment and abandoned vehicles, except:

(a) Those provisions which by their very nature can have no application.

(b) When otherwise specifically provided under the vehicle code.

(2) Subject to the provisions of subsection (1) of this section:

(a) A bicycle is a vehicle for purposes of the vehicle code; and

(b) When the term "vehicle" is used the term shall be deemed to be applicable to bicycles.

(3) The provisions of the vehicle code relating to the operation of bicycles do not relieve a bicyclist or motorist from the duty to exercise due care. [1983 c.338 §697; 1985 c.16 §335]

814.405 Status of electric assisted bicycle. An electric assisted bicycle shall be considered a bicycle, rather than a motor vehicle, for purposes of the Oregon Vehicle Code, except when otherwise specifically provided by statute. [1997 c.400 §4]

814.410 Unsafe operation of bicycle on sidewalk; penalty. (1) A person commits the offense of unsafe operation of a bicycle on a sidewalk if the person does any of the following:

(a) Operates the bicycle so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

(b) Operates a bicycle upon a sidewalk and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians on the sidewalk.

(c) Operates a bicycle on a sidewalk in a careless manner that endangers or would be likely to endanger any person or property.

(d) Operates the bicycle at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp. This paragraph does not require reduced speeds for bicycles at places on sidewalks or other pedestrian ways other than places where the path for pedestrians or bicycle traffic approaches or crosses that for motor vehicle traffic.

(e) Operates an electric assisted bicycle on a sidewalk.

(2) Except as otherwise specifically provided by law, a bicyclist on a sidewalk or in a crosswalk has the same rights and duties as a pedestrian on a sidewalk or in a crosswalk.

(3) The offense described in this section, unsafe operation of a bicycle on a sidewalk, is a Class D traffic violation. [1983 c.338 §699; 1985 c.16 §337; 1997 c.400 §7; 2005 c.316 §2]

814.414 Improper entry into intersection controlled by stop sign; penalty. (1) A person operating a bicycle who is approaching an intersection where traffic is

controlled by a stop sign may, without violating ORS 811.265, do any of the following without stopping if the person slows the bicycle to a safe speed:

(a) Proceed through the intersection.

(b) Make a right or left turn into a two-way street.

(c) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.

(2) A person commits the offense of improper entry into an intersection where traffic is controlled by a stop sign if the person does any of the following while proceeding as described in subsection (1) of this section:

(a) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close as to constitute an immediate hazard;

(b) Disobeys the directions of a police officer or flagger, as defined in ORS 811.230;

(c) Fails to exercise care to avoid an accident; or

(d) Fails to yield the right of way to a pedestrian in an intersection or crosswalk under ORS 811.028.

(3) The offense described in this section, improper entry into an intersection where traffic is controlled by a stop sign, is a Class D traffic violation. [2019 c.683 §2]

814.416 Improper entry into intersection controlled by flashing red signal; penalty. (1) A person operating a bicycle who is approaching an intersection where traffic is controlled by a flashing red signal may, without violating ORS 811.265, do any of the following without stopping if the person slows the bicycle to a safe speed:

(a) Proceed through the intersection.

(b) Make a right or left turn into a two-way street.

(c) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.

(2) A person commits the offense of improper entry into an intersection where traffic is controlled by a flashing red signal if the person does any of the following while proceeding as described in subsection (1) of this section:

(a) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close as to constitute an immediate hazard;

(b) Disobeys the directions of a police officer;

(c) Fails to exercise care to avoid an accident; or

(d) Fails to yield the right of way to a pedestrian in an intersection or crosswalk under ORS 811.028.

(3) The offense described in this section, improper entry into an intersection where traffic is controlled by a flashing red signal, is a Class D traffic violation. [2019 c.683 §3]

814.420 Failure to use bicycle lane or path; exceptions; penalty. (1) Except as provided in subsections (2) and (3) of this section, a person commits the offense of failure to use a bicycle lane or path if the person operates a bicycle on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.

(2) A person is not required to comply with this section unless the state or local authority with jurisdiction over the roadway finds, after public hearing, that the bicycle lane or bicycle path is suitable for safe bicycle use at reasonable rates of speed.

(3) A person is not in violation of the offense under this section if the person is able to safely move out of the bicycle lane or path for the purpose of:

(a) Overtaking and passing another bicycle, a vehicle or a pedestrian that is in the bicycle lane or path and passage cannot safely be made in the lane or path.

(b) Preparing to execute a left turn at an intersection or into a private road or driveway.

(c) Avoiding debris or other hazardous conditions.

(d) Preparing to execute a right turn where a right turn is authorized.

(e) Continuing straight at an intersection where the bicycle lane or path is to the right of a lane from which a motor vehicle must turn right.

(4) The offense described in this section, failure to use a bicycle lane or path, is a Class D traffic violation. [1983 c.338 §700; 1985 c.16 §338; 2005 c.316 §3]

814.430 Improper use of lanes; exceptions; penalty. (1) A person commits the offense of improper use of lanes by a bicycle if the person is operating a bicycle on a roadway at less than the normal speed of traffic using the roadway at that time and place under the existing conditions and the person does not ride as close as practicable to the right curb or edge of the roadway.

(2) A person is not in violation of the offense under this section if the person is not operating a bicycle as close as practicable to the right curb or edge of the roadway under any of the following circumstances:

(a) When overtaking and passing another bicycle or vehicle that is proceeding in the same direction.

(b) When preparing to execute a left turn.

(c) When reasonably necessary to avoid hazardous conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or other conditions that make continued operation along the right curb or edge unsafe or to avoid unsafe operation in a lane on the roadway that is too narrow for a bicycle and vehicle to travel safely side by side. Nothing in this paragraph excuses the operator of a bicycle from the requirements under ORS 811.425 or from the penalties for failure to comply with those requirements.

(d) When operating within a city as near as practicable to the left curb or edge of a roadway that is designated to allow traffic to move in only one direction along the roadway. A bicycle that is operated under this paragraph is subject to the same requirements and exceptions when operating along the left curb or edge as are applicable when a bicycle is operating along the right curb or edge of the roadway.

(e) When operating a bicycle alongside not more than one other bicycle as long as the bicycles are both being operated within a single lane and in a manner that does not impede the normal and reasonable movement of traffic.

(f) When operating on a bicycle lane or bicycle path.

(3) The offense described in this section, improper use of lanes by a bicycle, is a Class D traffic violation. [1983 c.338 §701; 1985 c.16 §339]

814.440 Failure to signal turn; exceptions; penalty. (1) A person commits the offense of failure to signal for a bicycle turn if the person does any of the following:

(a) Stops a bicycle the person is operating without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.

(b) Executes a turn on a bicycle the person is operating without giving the appropriate hand and arm signal for the turn for at least 100 feet before executing the turn.

(c) Executes a turn on a bicycle the person is operating after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.

(2) A person is not in violation of the offense under this section if the person is operating a bicycle and does not give the appropriate signal continuously for a stop or turn because circumstances require that both hands be used to safely control or operate the bicycle.

(3) The appropriate hand and arm signals for indicating turns and stops under this section are those provided for other vehicles under ORS 811.395 and 811.400.

(4) The offense described under this section, failure to signal for a bicycle turn, is a Class D traffic violation. [1983 c.338 §703; 1985 c.16 §341]

814.450 Unlawful load on bicycle; penalty. (1) A person commits the offense of having an unlawful load on a bicycle if the person is operating a bicycle and the person carries a package, bundle or article which prevents the person from keeping at least one hand upon the handlebar and having full control at all times.

(2) The offense described in this section, unlawful load on a bicycle, is a Class D traffic violation. [1983 c.338 §704]

814.460 Unlawful passengers on bicycle; penalty. (1) A person commits the offense of unlawful passengers on a bicycle if the person operates a bicycle and carries more persons on the bicycle than the number for which it is designed or safely equipped.

(2) The offense described in this section, unlawful passengers on a bicycle, is a Class D traffic violation. [1983 c.338 §705]

814.470 Failure to use bicycle seat; penalty. (1) A person commits the offense of failure to use a bicycle seat if the person is operating a bicycle and the person rides other than upon or astride a permanent and regular seat attached to the bicycle.

(2) The offense described in this section, failure to use a bicycle seat, is a Class D traffic violation. [1983 c.338 §706; 2003 c.341 §13; 2015 c.138 §26]

814.480 Nonmotorized vehicle clinging to another vehicle; penalty. (1) A person commits the offense of nonmotorized vehicle clinging to another vehicle if the person is riding upon or operating a bicycle, coaster, roller skates, sled or toy vehicle and the person clings to another vehicle upon a roadway or attaches that which the person is riding or operating to any other vehicle upon a roadway.

(2) The offense described in this section, nonmotorized vehicle clinging to another vehicle, is a Class D traffic violation. [1983 c.338 §707]

814.484 Meaning of "bicycle" and "operating or riding on a highway." (1) For purposes of ORS 814.485, 814.486, 815.052 and 815.281, "bicycle" has the meaning given in ORS 801.150 except that:

(a) It also includes vehicles that meet the criteria specified in ORS 801.150 (1) to (4) but

that have wheels that are 14 inches or less in diameter.

(b) It does not include tricycles designed to be ridden by children.

(2) For purposes of the offenses defined in ORS 814.485, 814.486 and 815.281 (2), a person shall not be considered to be operating or riding on a bicycle on a highway or on premises open to the public if the person is operating or riding on a three-wheeled nonmotorized vehicle on a beach while it is closed to motor vehicle traffic. [1993 c.408 §§3a,3b; 2015 c.138 §28]

814.485 Failure to wear protective headgear; penalty. (1) A person commits the offense of failure of a bicycle operator or rider to wear protective headgear if the person is under 16 years of age, operates or rides on a bicycle on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, failure of a bicycle operator or rider to wear protective headgear, is a specific fine traffic violation. The presumptive fine for failure of a bicycle operator or rider to wear protective headgear is $25. [1993 c.408 §2; 1995 c.581 §1; 2011 c.597 §103]

814.486 Endangering bicycle operator or passenger; penalty. (1) A person commits the offense of endangering a bicycle operator or passenger if:

(a) The person is operating a bicycle on a highway or on premises open to the public and the person carries another person on the bicycle who is under 16 years of age and is not wearing protective headgear of a type approved under ORS 815.052; or

(b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and the child operates or rides on a bicycle on a highway or on premises open to the public without wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, endangering a bicycle operator or passenger, is a specific fine traffic violation. The presumptive fine for endangering a bicycle operator or passenger is $25. [1993 c.408 §3; 1995 c.581 §2; 2011 c.597 §104]

814.487 Exemptions from protective headgear requirements. A person is exempt from the requirements under ORS 814.485 and 814.486 to wear protective headgear, if wearing the headgear would violate a religious belief or practice of the person. [1995 c.581 §4]

814.488 Citations; exemption from requirement to pay fine. (1) If a child in violation of ORS 814.485 is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, rather than to the child for violation of ORS 814.485.

(2) If a child in violation of ORS 814.485 is at least 12 years of age and is under 16 years of age, a citation may be issued to the child for violation of ORS 814.485 or to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, but not to both.

(3) The first time a person is convicted of an offense described in ORS 814.485 or 814.486, the person shall not be required to pay a fine if the person proves to the satisfaction of the court that the person has protective headgear of a type approved under ORS 815.052. [1993 c.408 §§3c,7]

814.489 Use of evidence of lack of protective headgear on bicyclist. Evidence of violation of ORS 814.485 or 814.486 and evidence of lack of protective headgear shall not be admissible, applicable or effective to reduce the amount of damages or to constitute a defense to an action for damages brought by or on behalf of an injured bicyclist or bicycle passenger or the survivors of a deceased bicyclist or passenger if the bicyclist or passenger was injured or killed as a result in whole or in part of the fault of another. [1993 c.408 §8]

MOTORIZED WHEELCHAIRS

814.500 Rights and duties of person riding motorized wheelchair on bicycle lane or path. Every person riding a motorized wheelchair on a bicycle lane or path is subject to the provisions applicable to and has the same rights and duties as the driver of a bicycle when operating on a bicycle lane or path, except:

(1) When those provisions which by their very nature can have no application.

(2) When otherwise specifically provided under the vehicle code. [1991 c.417 §3]

MOTOR ASSISTED SCOOTERS

814.510 Application of vehicle laws to motor assisted scooters. An operator of a motor assisted scooter upon a public way is subject to the provisions applicable to, and has the same rights and duties as the opera-

tor of, any other vehicle operating on highways except:

(1) Those provisions that by their very nature can have no application.

(2) When otherwise specifically provided under the vehicle code. [2001 c.749 §4]

814.512 Unlawful operation of motor assisted scooter; penalty. (1) A person operating a motor assisted scooter commits the offense of unlawful operation of a motor assisted scooter if:

(a) The person is under 16 years of age; or

(b) The person operates a motor assisted scooter at a rate of speed exceeding 15 miles per hour.

(2) The offense described in this section, unlawful operation of a motor assisted scooter, is a Class D traffic violation. [2001 c.749 §5]

814.514 Failure of operator of motor assisted scooter to use bicycle lane or path; exception; penalty. (1) Except as provided in subsection (2) of this section, a person commits the offense of failure of a motor assisted scooter operator to use a bicycle lane or bicycle path if the person operates a motor assisted scooter on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.

(2) A person is not subject to this section if the operation of a motor assisted scooter on a bicycle lane or bicycle path is prohibited by local ordinance.

(3) The offense described in this section, failure of a motor assisted scooter operator to use a bicycle lane or bicycle path, is a Class D traffic violation. [2001 c.749 §6]

814.516 Prohibition on operation of motor assisted scooters in state parks. The State Parks and Recreation Department may restrict or prohibit the operation of a motor assisted scooter on a bicycle lane or bicycle path in a state park except that the department may not restrict or prohibit the operation of a motor assisted scooter on a bicycle lane or bicycle path in a state park if the operator of the motor assisted scooter is disabled. [2001 c.749 §7]

814.518 Improper operation of motor assisted scooter on highway; exceptions; penalty. (1) A person commits the offense of improper operation of a motor assisted scooter on a highway if the person is operating a motor assisted scooter on a highway with a designated speed limit greater than 25 miles per hour.

(2) This section does not apply if:

(a) The person is operating a motor assisted scooter on a highway with a designated speed limit greater than 25 miles per hour and the person is operating the motor assisted scooter on a bicycle lane; or

(b) The person is operating a motor assisted scooter while crossing a highway with a designated speed limit greater than 25 miles per hour.

(3) The offense described in this section, improper operation of a motor assisted scooter on a highway, is a Class D traffic violation. [2001 c.749 §8]

814.520 Improper operation of motor assisted scooter in lane; exceptions; penalty. (1) A person commits the offense of improper operation of a motor assisted scooter in a lane if the person is operating a motor assisted scooter on a roadway at less than the normal speed of traffic using the roadway at that time and place under the existing conditions and the person does not ride as close as practicable to the right curb or edge of the roadway.

(2) A person is not in violation of this section if the person is not operating a motor assisted scooter as close as practicable to the right curb or edge of the roadway under any of the following circumstances:

(a) When overtaking and passing another motor assisted scooter or vehicle that is proceeding in the same direction.

(b) When preparing to execute a left turn.

(c) When reasonably necessary to avoid hazardous conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards or other conditions that make continued operation along the right curb or edge unsafe or to avoid unsafe operation in a lane on the roadway that is too narrow for a motor assisted scooter and vehicle to travel safely side by side. Nothing in this paragraph excuses the operator of a motor assisted scooter from the requirements under ORS 811.425 or from the penalties for failure to comply with those requirements.

(d) When operating within a city as near as practicable to the left curb or edge of a roadway that is designated to allow traffic to move in only one direction along the roadway. A motor assisted scooter that is operated under this paragraph is subject to the same requirements and exceptions when operating along the left curb or edge as are applicable when a motor assisted scooter is operating along the right curb or edge of the roadway.

(e) When operating a motor assisted scooter alongside not more than one other motor assisted scooter as long as the motor

assisted scooters are both being operated within a single lane and in a manner that does not impede the normal and reasonable movement of traffic.

(f) When operating on a bicycle lane or bicycle path.

(3) The offense described in this section, improper operation of a motor assisted scooter in a lane, is a Class D traffic violation. [2001 c.749 §9]

814.522 Failure to signal; exception; penalty. (1) A person commits the offense of failure to signal for a motor assisted scooter maneuver if the person is operating a motor assisted scooter and:

(a) Stops the motor assisted scooter without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.

(b) Executes a turn or lane change on the motor assisted scooter without giving the appropriate hand and arm signal for the turn at least 100 feet before executing the turn.

(c) Executes a turn on the motor assisted scooter after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.

(2) A person is not in violation of this section if the person is operating a motor assisted scooter and does not give the appropriate hand and arm signal continuously for a stop, turn or lane change because circumstances require that both hands be used to safely control or operate the motor assisted scooter.

(3) The appropriate hand and arm signals for indicating stops, turns and lane changes under this section are those provided for other vehicles under ORS 811.395 and 811.400.

(4) The offense described in this section, failure to signal for a motor assisted scooter maneuver, is a Class D traffic violation. [2001 c.749 §10]

814.524 Unsafe operation of motor assisted scooter on sidewalk; penalty. (1) A person commits the offense of unsafe operation of a motor assisted scooter on a sidewalk if the person operates a motor assisted scooter on a sidewalk, except to enter or leave adjacent property, or the person operates a motor assisted scooter on a sidewalk to enter or leave adjacent property and the person:

(a) Operates the motor assisted scooter so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

(b) Does not give an audible warning before overtaking and passing a pedestrian or does not yield the right of way to all pedestrians on the sidewalk.

(c) Operates the motor assisted scooter in a careless manner that endangers or would be likely to endanger any person or property.

(d) Operates the motor assisted scooter at a speed greater than an ordinary walk when approaching a crosswalk, approaching or entering a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.

(2) The offense described in this section, unsafe operation of a motor assisted scooter on a sidewalk, is a Class D traffic violation. [2001 c.749 §11]

814.526 Unsafe operation of motor assisted scooter on bicycle path or lane; penalty. (1) A person commits the offense of unsafe operation of a motor assisted scooter on a bicycle path or bicycle lane if the person operates a motor assisted scooter on a bicycle path or bicycle lane and does not give an audible warning before overtaking and passing a pedestrian or does not yield the right of way to all pedestrians on the bicycle path or bicycle lane.

(2) The offense described in this section, unsafe operation of a motor assisted scooter on a bicycle path or bicycle lane, is a Class D traffic violation. [2001 c.749 §12]

814.528 Operation of motor assisted scooter in crosswalk; exception; penalty. (1) A person commits the offense of operation of a motor assisted scooter in a crosswalk if the person fails to walk the motor assisted scooter in a crosswalk.

(2) This section does not apply to a person with a disability operating a motor assisted scooter in a crosswalk.

(3) The offense described in this section, operation of a motor assisted scooter in a crosswalk, is a Class D traffic violation. [2001 c.749 §13; 2007 c.70 §346]

814.530 Carrying passenger on motor assisted scooter; penalty. (1) A person commits the offense of carrying a passenger on a motor assisted scooter if the person operates a motor assisted scooter and carries another person on the motor assisted scooter.

(2) The offense described in this section, carrying a passenger on a motor assisted scooter, is a Class D traffic violation. [2001 c.749 §14]

814.532 Operating motor assisted scooter with unlawful load; penalty. (1) A person commits the offense of operating a motor assisted scooter with an unlawful load if the person is operating a motor assisted scooter and the person carries a package, bundle or article that prevents the person

from having full control of the vehicle at all times.

(2) The offense described in this section, operating a motor assisted scooter with an unlawful load, is a Class D traffic violation. [2001 c.749 §15; 2018 c.3 §2]

814.534 Failure of motor assisted scooter operator to wear protective headgear; exception; penalty. (1) A person commits the offense of failure of a motor assisted scooter operator to wear protective headgear if the person operates a motor assisted scooter on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) A person is exempt from the protective headgear requirement of subsection (1) of this section if wearing the headgear would violate a religious belief or practice of the person.

(3) The first time a person is convicted of an offense under this section, the person may not be required to pay a fine if the person proves to the satisfaction of the court that the person has protective headgear of a type approved under ORS 815.052.

(4) The offense described in this section, failure of a motor assisted scooter operator to wear protective headgear, is a specific fine traffic violation. The presumptive fine for failure of a motor assisted scooter operator to wear protective headgear is $25. [2001 c.749 §16; 2011 c.597 §105]

814.536 Endangering motor assisted scooter operator; penalty. (1) A person commits the offense of endangering a motor assisted scooter operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and authorizes or knowingly permits the child to operate a motor assisted scooter in violation of ORS 814.512 (1)(a).

(2) The offense described in this section, endangering a motor assisted scooter operator, is a specific fine traffic violation. The presumptive fine for endangering a motor assisted scooter operator is $25. [2001 c.749 §17; 2011 c.597 §106]

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

814.550 Application of vehicle laws to electric personal assistive mobility device. (1) An electric personal assistive mobility device is not a motor vehicle for purposes of the Oregon Vehicle Code, except when specifically provided by statute.

(2) A person operating an electric personal assistive mobility device on a bicycle lane, bicycle path or any part of a highway is subject to any provisions applicable to and has the same rights and duties as the driver of a bicycle when operating on a bicycle lane, bicycle path or any part of a highway, except when otherwise specifically provided by statute.

(3) A person operating an electric personal assistive mobility device on a sidewalk is subject to any provisions applicable to and has the same rights and duties as a pedestrian on a sidewalk, except when otherwise specifically provided by statute.

(4) Subject to the provisions of subsections (1) to (3) of this section, for purposes of the vehicle code:

(a) An electric personal assistive mobility device is a vehicle; and

(b) When the term "vehicle" is used the term shall be deemed to be applicable to electric personal assistive mobility devices, except those provisions that by their very nature can have no application to the devices.

(5) The provisions of the vehicle code relating to the operation of an electric personal assistive mobility device do not relieve an operator or motorist from the duty to exercise due care. [2003 c.341 §11]

814.552 Unsafe operation of electric personal assistive mobility device; penalty. (1) A person commits the offense of unsafe operation of an electric personal assistive mobility device if:

(a) The person is operating an electric personal assistive mobility device on a highway that has a designated or posted speed limit greater than 35 miles per hour or that has no designated or posted speed limit, and the person is not in a bicycle lane or crossing the highway;

(b) The person is operating an electric personal assistive mobility device on a bicycle lane, bicycle path or any part of a highway at a speed greater than 15 miles per hour;

(c) The person is operating an electric personal assistive mobility device on a sidewalk in a careless manner that endangers or would be likely to endanger any person or property;

(d) The person is operating an electric personal assistive mobility device on a bicycle lane, bicycle path, sidewalk or other premises open to the public and the person carries another person on the electric personal assistive mobility device;

(e) The person is operating an electric personal assistive mobility device at a speed greater than an ordinary walk when approaching a crosswalk, approaching or entering a driveway or crossing a curb cut or

pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp; or

(f) The person is operating an electric personal assistive mobility device on a sidewalk and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians on the sidewalk.

(2) The offense described in this section, unsafe operation of an electric personal assistive mobility device, is a Class D traffic violation. [2003 c.341 §12]

814.554 Local government and state agency regulation of operation of electric personal assistive mobility devices. Local governments and state agencies having jurisdiction over public highways, sidewalks, alleys, bridges, trails, recreational roads and other ways of public passage may regulate by ordinance or rule and by traffic control device the time, place and manner of operation of electric personal assistive mobility devices, including prohibiting their use entirely. [2003 c.341 §20]

NONMOTORIZED VEHICLES OTHER THAN BICYCLES

814.600 Failure of skateboarder, scooter rider or in-line skater to wear protective headgear; penalty. (1) A person commits the offense of failure of a skateboarder, scooter rider or in-line skater to wear protective headgear if the person is under 16 years of age, rides on a skateboard or scooter or uses in-line skates on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) The offense described in this section, failure of a skateboarder, scooter rider or in-line skater to wear protective headgear, is a specific fine traffic violation punishable by a maximum fine of $25. The presumptive fine for failure of a skateboarder, scooter rider or in-line skater to wear protective headgear is $25. [2003 c.106 §1; 2011 c.597 §107]

Note: 814.600 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Chapter 815

2019 EDITION

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GENERAL PROVISIONS

815.005 Consistent parts and equipment authorized. Nothing in the vehicle code shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of the vehicle code. [1983 c.338 §434]

815.010 Compliance with standards for equipment; federal standards to supersede state. (1) Testing requirements for equipment standards adopted under the vehicle code shall be met by the manufacturer submitting a report from a laboratory approved by the Department of Transportation showing compliance with the current federal regulations or the standards of the Society of Automotive Engineers, the American National Standards Institute or the National Institute of Standards and Technology. This subsection supersedes any provision to the contrary in the vehicle code.

(2) A federal vehicle safety standard that conflicts with an equipment provision of the vehicle code applicable to the same aspect of performance shall supersede that specific provision of the vehicle code with respect to vehicles in compliance with the federal vehicle safety standard that was in effect at the time of sale. [1983 c.338 §435; 1985 c.16 §228; 1989 c.402 §2; 1991 c.67 §221; 2003 c.14 §497; 2003 c.158 §1]

815.015 Department inspection of vehicles for compliance. The Department of Transportation may at any time inspect any vehicle to determine its compliance with the equipment provisions and other provisions of the vehicle code. [1983 c.338 §436]

815.020 Operation of unsafe vehicle; penalty. (1) A person commits the offense of operation of an unsafe vehicle if the person does any of the following:

(a) Drives or moves on any highway any vehicle which is in such unsafe condition as to endanger any person.

(b) Owns a vehicle and causes or knowingly permits the vehicle to be driven or moved on any highway when the vehicle is in such unsafe condition as to endanger any person.

(2) The offense described in this section, operation of an unsafe vehicle, is a Class B traffic violation. [1983 c.338 §437]

815.025 Causing unreasonable noise with vehicle; penalty. (1) A person commits the offense of causing unreasonable noise with a vehicle if the person operates upon any highway any motor vehicle so as to cause any greater noise or sound than is reasonably necessary for the proper operation of the vehicle.

(2) The offense described in this section, causing unreasonable noise with a vehicle, is a Class D traffic violation. [1983 c.338 §438; 1987 c.158 §171; 1995 c.383 §22]

AUTHORITY TO ESTABLISH STANDARDS

815.030 State vehicle equipment standards. (1) The Department of Transportation shall adopt and enforce minimum standards for vehicle performance or vehicle equipment performance consistent with this section.

(2) Standards adopted by the department under this section shall be consistent with any vehicle standards established under federal regulations or under standards of the Society of Automotive Engineers, the American National Standards Institute or the National Institute of Standards and Technology.

(3) As federal regulations concerning vehicle equipment are subsequently amended or repealed the department may consider subsequent federal vehicle safety standards and adopt standards with respect to any vehicle or item of vehicle equipment applicable to the same aspect of performance of such vehicle or item of equipment if the department determines that the subsequent federal standards are practicable, provide an objective standard and meet the need for vehicle safety.

(4) Standards adopted by the department under this section supersede any equipment provision of the vehicle code applicable to the same aspect of performance that conflicts with a specific provision of a standard adopted by the department under this section with respect to compliance with safety standards in effect at the time of sale.

(5) The department shall continue to adopt equipment standards as required under other sections of the vehicle code if there is no standard under this section.

(6) Proof of certification of equipment under this section may be in the form of a symbol or designation prescribed in federal standards or if there is no federal symbol or designation, by a symbol or designation acceptable to the department.

(7) Compliance with any requirements for equipment under this section is subject to ORS 815.010.

(8) Prohibitions and penalties relating to the standards established under this section are provided under ORS 815.075 and 815.100. [1983 c.338 §439; 1985 c.188 §1; 2003 c.158 §2]

815.035 Rules for standards for roadside warning devices. The Department of Transportation shall adopt rules to establish standards for roadside vehicle warning devices for purposes of ORS 811.530 and 815.285. The rules shall include requirements for the placement and use of such warning

devices to provide warning of disabled vehicles. [1985 c.16 §230]

815.040 Standards for window and windshield material. (1) The Department of Transportation shall establish standards for safety glazing material used in vehicle windows and windshields including standards for any glazing material so constructed, treated or combined with other materials as to reduce substantially, in comparison to ordinary sheet or plate glass, the likelihood of injury to persons by broken or cracked glass or by objects from external sources.

(2) The standards established under this section shall conform, insofar as practical, to safety standards and specifications for safety glazing material issued by the federal government.

(3) Prohibitions and penalties relating to the standards established under this section are provided under ORS 815.090 and 815.210.

(4) The standards established under this section may not restrict the installation and use of window tinting material that meets the requirements of ORS 815.221. [1983 c.338 §440; 1989 c.402 §3; 1995 c.263 §5; 2003 c.14 §498; 2003 c.158 §3]

815.045 Rules for use of traction tires, retractable studded tires and chains; signs. (1) The Oregon Transportation Commission shall adopt rules necessary to carry out ORS 815.140. The rules adopted by the commission:

(a) Shall establish the various types of conditions under which vehicle traction tires or chains must be used.

(b) Shall define types of vehicle traction tires or chains that may be used under various road conditions. The commission rules under this paragraph shall comply with the following:

(A) Traction tire shall be defined to include any tire that meets traction standards established by the Department of Transportation.

(B) Retractable studded tires or tires with studs that are permitted under ORS 815.165 shall be allowed as traction tires under the rules.

(C) The department may require that traction tires without studs bear identifying marks, defined by the department, that indicate that the tire was manufactured specifically for adverse weather conditions.

(D) Chains shall be defined to include link chains, cable chains or any other device that attaches to the wheel, vehicle or outside of the tire and that augments the traction of a vehicle.

(E) Retractable studded tires shall be defined to include tires with embedded studs that project beyond the tread surface only when a vehicle operator extends the studs to augment the traction of the vehicle.

(c) Shall establish signs to be posted under conditions that require vehicle traction tires or chains.

(d) May establish types or classes of vehicles that are exempt from requirements to use vehicle traction tires or chains under certain conditions if the commission determines that the operation of the class or type of vehicle would be safe under those conditions.

(2) A road authority shall:

(a) Determine when conditions on a segment of highway require the use of vehicle traction tires or chains as defined by the commission;

(b) Determine which segments of a highway shall be posted as described under this section to require vehicle traction tires or chains; and

(c) Provide for the placement and removal of signs requiring the use of vehicle traction tires or chains. [1983 c.338 §441; 1985 c.16 §231; 1993 c.741 §86; 1997 c.493 §1; 2007 c.406 §1]

815.050 [1983 c.338 §442; 1985 c.16 §232; 1993 c.751 §73; repealed by 1995 c.492 §8]

815.052 Rules establishing standards for protective headgear. The Department of Transportation shall adopt and enforce rules establishing minimum standards and specifications for safe protective headgear to be worn by people operating bicycles, by passengers on bicycles and by people riding on skateboards or scooters or using in-line skates. The rules shall conform, insofar as practicable, to national safety standards and specifications for such headgear. [1993 c.408 §6; 2003 c.106 §2; 2005 c.141 §1]

815.055 Rules establishing standards for safety belts, harnesses and child safety systems. (1) The Department of Transportation shall adopt and enforce rules establishing minimum standards and specifications for the construction and installation of safety belts, safety harnesses or child safety systems and anchors or other devices to which safety belts, safety harnesses or child safety systems may be attached and secured. The rules adopted under this subsection are subject to the following:

(a) The rules that establish minimum standards and specifications for child safety systems required and regulated under this section and ORS 811.210 and 815.080 shall conform to the standards for child safety systems established by the federal government. Child safety systems are required to meet those standards in effect at the date of manufacture.

(b) All rules adopted under this subsection shall conform to the regulations and standards established by the federal government relating to safety belt assemblies that are applicable to motor vehicles at the date of manufacture.

(2) The department may purchase in the market and test or submit to testing laboratories any safety belt, safety harness, child safety system or anchor or other device. The department shall enforce the penalties under ORS 815.080 if it determines that the belt, harness, child safety system or anchor or other device does not conform to the minimum standards established under this section.

(3) Prohibitions and penalties relating to sale and use of equipment subject to this section are provided under ORS 811.210 and 815.080. [1983 c.338 §443; 1985 c.16 §233; 1989 c.402 §4; 1993 c.751 §74; 2001 c.679 §2; 2003 c.158 §9]

815.060 Rules establishing standards for slow-moving vehicle emblems. The Department of Transportation shall adopt rules for slow-moving vehicle emblems for purposes of ORS 815.110 and 815.115. The rules adopted under this section shall:

(1) Require a slow-moving vehicle emblem that is reflectorized or fluorescent and that is of a standard type.

(2) Establish design and mounting requirements that the emblem must meet.

(3) Conform to the nationally accepted standards for slow-moving vehicle emblems. [1983 c.338 §444]

815.065 Rules establishing standards for hydraulic brake fluid. The Department of Transportation shall adopt and enforce rules for the purpose of regulation of hydraulic brake fluid under ORS 815.085. The rules shall establish standards and specifications and labeling requirements for hydraulic brake fluid and other liquid mediums through which force is transmitted to the brakes in the hydraulic brake system of a vehicle. The rules, in so far as practicable, shall conform to safety standards and specifications for brake fluids issued by the federal government and to the current standards and specifications of the Society of Automotive Engineers applicable to such fluid. The department shall publish rules adopted under this section. Penalties and prohibitions relating to the rules are as provided under ORS 815.085. [1983 c.338 §446; 1989 c.402 §5; 2003 c.158 §12]

815.070 Road warning signals for tow vehicles or wreckers. The Oregon Transportation Commission shall prescribe warning signs or signals for placement on roadways by tow vehicles or wreckers under ORS 822.220. [1983 c.338 §449; 1985 c.16 §236; 1987 c.119 §2]

PROVIDING UNLAWFUL EQUIPMENT

815.075 Selling vehicles or equipment that violates rules; exemptions; penalty. (1) A person commits the offense of selling vehicles or equipment that violates state equipment administrative rules if the person sells or offers for sale any vehicle or sells or offers for sale for use upon a vehicle or uses on any vehicle any equipment if the vehicle or equipment:

(a) Does not conform to standards established by the Department of Transportation by rule under ORS 815.030; and

(b) Does not bear thereon proof of certification that it complies with the applicable standards.

(2) Proof of certification required under this section may be made in any manner provided under ORS 815.030.

(3) This section is subject to the following exemptions in addition to any exemptions under ORS 801.026:

(a) Vehicles of special interest that are registered under ORS 805.020 are deemed to comply with this section if:

(A) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating order; or

(B) The vehicles are street rods that conform to ORS 815.107.

(b) Road machinery, road rollers, implements of husbandry, farm trailers and farm tractors are not subject to this section.

(c) Antique vehicles are not subject to this section if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(d) Racing activity vehicles are not subject to this section.

(4) The offense described under this section, selling vehicles or equipment that violates state equipment administrative rules, is a Class D traffic violation. [1983 c.338 §450; 1985 c.16 §237; 1989 c.402 §6; 1995 c.79 §375; 1995 c.383 §23; 1997 c.402 §6; 2007 c.693 §9]

815.080 Providing safety belt, harness or child safety system that does not comply with standards; exemptions; penalty. (1) A person commits the offense of providing a safety belt, harness equipment or a child safety system that does not comply with standards if the person does any of the following:

(a) Sells or offers for sale a new motor vehicle that is not equipped with safety belts, safety harnesses or child safety systems that comply with and are installed in compliance

with the rules adopted by the Department of Transportation under ORS 815.055. This paragraph applies only to motor vehicles that are primarily designed for transportation of individuals and that have seating for one or more passengers side-by-side with the operator. This paragraph requires only that the vehicle be equipped with one seat belt or harness for the operator and one for at least one of the passengers seated beside the operator.

(b) Sells or offers for sale any safety belt, safety harness, child safety system, anchor or other device for attaching or securing safety belts, safety harnesses or child safety system if the belt, harness, child safety system, anchor or device does not comply with the rules adopted by the department under ORS 815.055. This paragraph applies only to belts, harnesses, child safety systems, anchors or devices for use or installation on a vehicle that is primarily designed for transportation of individuals.

(c) Sells or offers for sale any safety belt, safety harness, child safety system, anchor or other device for attaching or securing safety belts, safety harnesses or child safety systems if the belt, harness, child safety system, anchor or device is not marked as required under federal safety standards and if the mark is not legible when the belt, harness, child safety system, anchor or other device is used or installed on a vehicle. This paragraph applies only to belts, harnesses, child safety systems, anchors or devices for use or installation on a vehicle that is primarily designed for transportation of individuals.

(d) Installs any safety belt, safety harness, child safety system, anchor or other device for attaching or securing safety belts, safety harnesses or child safety systems on a vehicle that is primarily designed for the transportation of individuals except in compliance with rules adopted by the department under ORS 815.055.

(2) This section does not apply to school buses or school activity vehicles that are subject to equipment standards adopted by the State Board of Education or the governing board of a public university listed in ORS 352.002.

(3) The offense described in this section, providing a safety belt, harness equipment or a child safety system that does not comply with standards, is a Class C traffic violation. [1983 c.338 §452; 1985 c.16 §238; 1985 c.420 §5; 1987 c.119 §3; 1993 c.751 §113; 1995 c.383 §24; 1999 c.39 §10; 2003 c.158 §11; 2015 c.767 §210]

815.085 Servicing with or selling unapproved brake fluid; penalty. (1) A person commits the offense of servicing with or selling unapproved brake fluid if the person does any of the following:

(a) Distributes, has for sale, offers for sale or sells any hydraulic brake fluid or any other liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle if the fluid or liquid does not comply with the standards, specifications and labeling established by rule by the Department of Transportation under ORS 815.065.

(b) Services any vehicle with any hydraulic brake fluid or any other liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle if the fluid or liquid does not comply with the standards, specifications and labeling established by rule by the department under ORS 815.065.

(2) The offense described in this section, servicing with or selling unapproved brake fluid, is a Class A misdemeanor. [1983 c.338 §454]

815.090 Replacement of vehicle windows with unapproved material; penalty. (1) A person commits the offense of replacement of vehicle windows with unapproved material if the person makes or procures the replacement of windows or windshields in a motor vehicle and the replacement is made with a material that does not meet the standards established by the Department of Transportation under ORS 815.040.

(2) This section does not apply to vehicles that are exempt under ORS 815.210 from the prohibitions against operating a vehicle without approved materials in the vehicle windows.

(3) The offense described in this section, replacement of vehicle windows with unapproved material, is a Class A misdemeanor. [1983 c.338 §455; 2003 c.158 §4]

815.095 Unlawful sales, installations or representations concerning pollution control systems; penalty. (1) A person commits the offense of making unlawful sales of, installations of or representations concerning vehicle pollution control systems if the person does any of the following:

(a) Sells, displays, advertises or represents as a certified system any motor vehicle pollution control system that is not certified under ORS 468A.365.

(b) Sells, displays, advertises or represents as an approved retrofit technology any retrofit technology that is not approved under ORS 468A.810.

(c) Installs or sells for installation upon a motor vehicle any motor vehicle pollution control system for which a certificate of ap-

proval has not been issued under ORS 468A.365.

(2) The offense described in this section, making unlawful sales, installations or representations concerning vehicle pollution control systems, is a Class A misdemeanor but each day of violation does not constitute a separate offense. [1983 c.338 §456; 1985 c.16 §239; 2019 c.645 §9]

815.097 Providing vehicle with mercury light switch. A person commits the offense of providing a vehicle with a mercury light switch if the person sells or offers for sale in this state a vehicle manufactured after January 1, 2006, that contains a mercury light switch mounted on the hood or trunk. [2001 c.924 §7]

OPERATING WITH UNLAWFUL EQUIPMENT

815.100 Operation of vehicle that violates equipment rules; penalty. (1) A person commits the offense of operation of a vehicle that violates state equipment administrative rules if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a vehicle if the vehicle or any equipment on the vehicle:

(a) Does not conform to standards established by the Department of Transportation by rule under ORS 815.030; and

(b) Does not bear thereon proof of certification that it complies with the applicable standards.

(2) Proof of certification required under this section may be made in any manner provided under ORS 815.030.

(3) This section is subject to the exemptions from this section established under ORS 815.105.

(4) Vehicle equipment standards established by rule under ORS 815.030 supersede any other equipment standards under the vehicle code when so provided by ORS 815.030.

(5) The offense described under this section, operation of vehicle that violates state equipment administrative rules, is a Class C traffic violation. [1983 c.338 §466; 1985 c.16 §244; 1985 c.393 §16]

815.105 Exemptions from equipment requirements. This section establishes exemptions from ORS 815.030 and 815.100. Exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions under this section are partial or complete as described in the following:

(1) Vehicles of special interest that are registered under ORS 805.020 are deemed to comply with ORS 815.030 and 815.100 if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(2) Road machinery, road rollers, implements of husbandry, farm trailers and farm tractors are exempt from ORS 815.030 and 815.100.

(3) Antique vehicles are exempt from ORS 815.030 and 815.100 if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) Motorized wheelchairs are exempt from ORS 815.030 and 815.100 when used as permitted under ORS 811.440.

(5) Racing activity vehicles are exempt from ORS 815.030 and 815.100. [1983 c.338 §467; 1985 c.16 §245; 1989 c.402 §7; 1991 c.417 §5; 1997 c.402 §7; 2007 c.693 §10]

815.107 Exemption from equipment requirements for street rods. A vehicle of special interest that is a street rod is exempt from vehicle equipment requirements under ORS 815.075, 815.105, 815.120, 815.135, 815.175, 815.190, 815.210, 815.215, 815.230, 815.250, 815.255 and 816.340 if all of the following apply:

(1) The vehicle is equipped with original manufacturer's equipment and accessories, or their equivalent, except that:

(a) The drive train, suspension system or brake system on the original vehicle may be replaced with a drive train, suspension system or brake system that:

(A) Conforms to the requirements of ORS 815.125, if applicable;

(B) Conforms to applicable standards established by the Department of Transportation by rule under ORS 815.030; and

(C) Bears any required proof of certification that the equipment complies with the applicable standards;

(b) The dimensions of the original body of the vehicle may be altered if the altered body conforms to the standards established by the department by rule under ORS 815.030;

(c) The hood, bumpers and fenders of the vehicle may be removed from the vehicle; and

(d) The exhaust system may be modified to discharge exhaust along the side of the vehicle if the exhaust is discharged away from the vehicle and from a location to the rear of the rear edge of the front door of the vehicle.

(2) The vehicle is maintained in safe operating condition. [1997 c.402 §5; 1999 c.59 §243]

815.109 Exemption from equipment requirements for racing activity vehicles. A racing activity vehicle is exempt from vehicle equipment requirements under ORS 815.040, 815.075, 815.250, 815.295 and 815.310 if all of the following apply:

(1) The vehicle is equipped with original manufacturer's equipment and accessories or their equivalent; and

(2) The vehicle is maintained in safe operating condition. [2007 c.693 §3]

SPECIFIC EQUIPMENT

(Slow-Moving Vehicles)

815.110 Requirements for and use of slow-moving vehicle emblem. This section establishes requirements for ORS 815.115. The requirements under this section are in addition to any other requirements for lighting equipment provided by law. Except as specifically provided by an exemption under ORS 815.120, a person violates ORS 815.115 if the person does not comply with any of the following requirements:

(1) The following types of vehicles must display slow-moving vehicle emblems described under ORS 815.060:

(a) Vehicles or combinations of vehicles designed for customary use at speeds of less than 25 miles per hour.

(b) Golf carts or similar vehicles when operated by a person with a disability.

(c) Class I, Class II and Class IV all-terrain vehicles operated on a highway under ORS 821.191 (1).

(2) Slow-moving vehicle emblems must meet the requirements for such emblems established by the Department of Transportation by rule under ORS 815.060.

(3) Slow-moving vehicle emblems shall be displayed on the rear of the power unit. When a combination of vehicles is being operated in a manner that obscures the emblem mounted on the power unit, an additional emblem shall be displayed on the rear of the rearmost vehicle in the combination. [1983 c.338 §469; 2001 c.529 §5; 2007 c.70 §347; 2007 c.207 §3; 2011 c.360 §19]

815.115 Violation of emblem requirements; penalty. (1) A person commits the offense of violation of slow-moving vehicle emblem requirements if the person:

(a) Drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a vehicle or combination of vehicles if the vehicle or combination of vehicles:

(A) Is required by ORS 815.110 to be equipped with a slow-moving vehicle emblem and the vehicle is not equipped with an emblem in the manner required by ORS 815.060.

(B) Is displaying a slow-moving vehicle emblem when not required under ORS 815.110 or in a manner not in conformity with ORS 815.060; or

(b) Displays a slow-moving vehicle emblem on a highway when not required under ORS 815.110.

(2) This section is subject to exemptions from this section established under ORS 815.120.

(3) The offense described in this section, violation of slow-moving vehicle emblem requirements, is a Class C traffic violation. [1983 c.338 §468; 1985 c.393 §17; 2013 c.478 §1]

815.120 Exemptions from emblem requirements. This section establishes exemptions from the requirements of ORS 815.110 and 815.115. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

(1) Vehicles of special interest that are registered under ORS 805.020 are deemed to comply with the requirements if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(2) Antique vehicles are not subject to the standards if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(3) Road machinery, road rollers and farm tractors are not subject to the requirements except as provided in this subsection. Such vehicles or combinations thereof are subject to the requirements if the vehicles are designed for use at speeds less than 25 miles per hour, except when such vehicles are engaged in actual construction or maintenance work and guarded by a flagger or by clear visible warning signs. [1983 c.338 §470; 1985 c.16 §246; 1985 c.69 §8; 1997 c.402 §8]

(Brakes)

815.125 Requirements and standards. This section establishes requirements for ORS 815.130. Except as specifically provided by an exemption under ORS 815.135, a vehicle or combination of vehicles is in violation of ORS 815.130, if the vehicle or combination of vehicles is not equipped with brakes as

required under the following or if the brakes do not meet the standards described under the following:

(1) Motorcycles and mopeds shall be provided with at least one brake that may be operated by hand or foot.

(2) Motor vehicles other than mopeds or motorcycles shall be equipped with brakes that include two separate means of applying the brakes. Each of the separate means of applying the brakes shall be effective to apply the brakes to at least two wheels and, if the separate means of applying the brakes are connected in any way, shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(3) A combination of vehicles that includes a motor vehicle and any other vehicle shall be equipped with a brake system on one or more of the vehicles.

(4) Brakes on any vehicle must be adequate to control movement of and to stop and to hold the vehicle or combination of vehicles.

(5) Brakes on any vehicle must be maintained in good working order.

(6) Every motor vehicle and combination of motor vehicles except mopeds or motorcycles shall at all times be equipped with a parking brake system. A parking brake system required by this subsection must meet all the following requirements:

(a) The system must be adequate to hold the vehicle or combination of motor vehicles on any grade where operated under any condition of loading on a surface free from ice or snow.

(b) The system shall at all times be capable of being applied by either the driver's muscular effort, by spring action or by other energy. This paragraph is violated if the method for applying the system is not sufficient to make the system hold a vehicle as required by this subsection.

(c) If the system is applied by an energy source, the source must be isolated from other uses and used exclusively for the operation of the system.

(d) The method for keeping the brakes applied must be other than by fluid pressure, air pressure or electric energy.

(e) The system shall be designed so that the brakes cannot be released unless they may be immediately reapplied.

(7) Brakes on vehicles of the following described weight must be able to stop the vehicle moving at the described speed within the described distance without leaving a 12-foot-wide lane:

(a) Vehicles with a registration weight of less than 8,000 pounds must be able to brake from a speed of 20 miles per hour to a stop within 25 feet.

(b) Vehicles with a registration weight of 8,000 pounds or more and combinations of vehicles must be able to brake from a speed from 20 miles per hour to a stop within 35 feet. [1983 c.338 §472; 1985 c.16 §247]

815.130 Improper brakes; penalty. (1) A person commits the offense of having improper brakes if the person does any of the following:

(a) Drives or moves on any highway a vehicle that is not equipped with brakes that meet requirements under ORS 815.125.

(b) Owns a vehicle and causes or knowingly permits the vehicle to be driven or moved on any highway when the vehicle is not equipped with brakes that meet the requirements under ORS 815.125.

(2) This section is subject to the exemptions from this section established under ORS 815.135.

(3) The offense described in this section, improper brakes, is a Class C traffic violation. [1983 c.338 §471; 1995 c.383 §25]

815.135 Exemptions from brake requirements. This section establishes exemptions from ORS 815.130. This section establishes exemptions from ORS 815.130. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

(1) The following vehicles shall be deemed in compliance with the brake requirements if the vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and maintained in safe operating condition:

(a) Except as provided in subsection (2) of this section, vehicles of special interest that are registered under ORS 805.020.

(b) Antique vehicles that are registered under ORS 805.010.

(2) Vehicles of special interest that are registered under ORS 805.020 and that are street rods, as defined in ORS 801.513, shall be deemed in compliance with the brake requirements if the street rods conform to ORS 815.107.

(3) The following vehicles are exempt from the brake requirements:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors.

(d) Electric personal assistive mobility devices.

(e) A trailer transporting a dory, unless the trailer is operated in interstate commerce, has a gross combination weight rating of more than 11,999 pounds or has a gross combination weight of more than 11,999 pounds. [1983 c.338 §473; 1985 c.69 §2; 1997 c.402 §9; 2003 c.341 §15; 2015 c.138 §31; 2017 c.78 §1]

(Tires)

815.140 Failure to use vehicle traction tires or chains; penalty. (1) A person commits the offense of failure to use vehicle traction tires or chains if the person drives or moves or owns and causes or knowingly permits to be driven or moved any motor vehicle or trailer on any highway if the highway is posted showing conditions that require vehicle traction tires or chains and the vehicle is not equipped with vehicle traction tires or chains that are required for the posted conditions.

(2) Traction tires or chains that are referred to in this section are those established by rule under the authority granted under ORS 815.045.

(3) This section does not apply to vehicles exempted from this section under ORS 815.145.

(4) This section only applies to sections of highway on which a road authority requires the use of traction tires or chains and on which signs requiring the use of traction tires or chains have been posted as provided in ORS 815.045.

(5) A court shall not find a person to be in violation of the offense described under this section if the court determines that the conditions of the highway at the time the person was cited did not require posting under rules adopted under ORS 815.045. The defense under this subsection may be affirmatively asserted by any person cited for violation of the offense described in this section.

(6) The offense described in this section, failure to use vehicle traction tires or chains, is a Class C traffic violation. [1983 c.338 §474; 1995 c.383 §119; 1997 c.493 §2]

815.145 Exemptions from traction tire or chains requirement. This section establishes exemptions from ORS 815.140. The following are completely or partially exempt as described:

(1) Police vehicles under any conditions.

(2) Fire vehicles when responding to a fire.

(3) An ambulance when responding to an emergency.

(4) A passenger vehicle or truck is not required to use chains if the vehicle or truck:

(a) Has an unloaded weight of 6,500 pounds or less;

(b) Is equipped and operated to provide power to both front and rear wheels;

(c) Is carrying chains as defined in ORS 815.045;

(d) Is equipped with tires, on all wheels, that are vehicle traction tires as defined in ORS 815.045;

(e) Is not towing another vehicle other than as may be necessary to remove disabled vehicles from the roadway; and

(f) Is not being operated in a manner or under conditions where the vehicle loses traction while stopping, cornering or moving.

(5) Vehicles exempt by rule under ORS 815.045. [1983 c.338 §475; 1997 c.493 §3]

815.150 [1983 c.338 §476; 1985 c.16 §248; 1987 c.145 §1; 1991 c.67 §222; repealed by 1997 c.326 §2 and 1997 c.493 §6]

815.155 Unlawful use of device without wheels; exemptions; civil liability; penalty. (1) A person commits the offense of unlawful use of devices without wheels if the person does any of the following:

(a) Drives or moves on a highway any sled or other device that does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the highway and that has a loaded weight in excess of 500 pounds.

(b) Owns a sled or other device that does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the highway and that has a loaded weight in excess of 500 pounds and causes or permits the sled or device to be driven or moved on a highway. Operation of any sled or device in violation of this section is prima facie evidence that the owner of the sled or device caused or permitted the sled or device to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section.

(2) The application of this section is subject to the following exemptions:

(a) This section does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(b) This section does not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(c) Operations authorized under the terms of a variance permit issued under ORS 818.200 are subject to the terms of the per-

mit. It is a defense to any charge of violation of this section if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation issued prior to and valid at the time of the offense.

(d) This section does not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon, or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.

(e) This section does not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the operation is approved by the road authority for that road.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, unlawful use of devices without wheels, is a Class C traffic violation. [1983 c.338 §477; 1985 c.16 §249; 1985 c.393 §18]

815.160 Unlawful use of metal objects on tires; civil liability; penalty. (1) A person commits the offense of unlawful use of metal objects on tires if the person does any of the following:

(a) Drives or moves on a highway any vehicle equipped with any tire having on its periphery any block, stud, cleat, bead, chain or other protuberance of metal or other inflexible material that projects beyond the tread or traction surface of the tire.

(b) Owns a vehicle and causes or permits the vehicle to be driven or moved on a highway when the vehicle is equipped with any tire having on its periphery any block, stud, cleat, bead, chain or other protuberance of metal or other inflexible material that projects beyond the tread or traction surface of the tire. Operation of any vehicle in violation of this section is prima facie evidence that the owner of the vehicle caused or permitted the vehicle to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 815.165.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, unlawful use of metal objects on tires, is a Class C traffic violation. [1983 c.338 §478; 1985 c.393 §19]

815.165 Exemptions from prohibition on tires with metal objects. This section establishes exemptions from ORS 815.160. The exemptions under this section are in addition to any under ORS 801.026. Exemptions are partial or complete as described in the following:

(1) Any vehicle on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) Any vehicle on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(3) Operations approved under a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 815.160 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation issued prior to and valid at the time of the offense.

(4) Vehicles actually engaged at the time in construction or repair of highways in this state.

(5) Traction engines moved upon dirt or unimproved roads.

(6) Vehicles equipped with chains as defined in ORS 815.045.

(7) Between November 1 of any year and April 1 of the following year, vehicles equipped with any tire having on its periphery studs of metal or other material projecting beyond the tread surface of the tire not less than four-hundredths (0.04) inch nor more than six-hundredths (0.06) inch and made of such material that the studs will wear, through use, at the same rate as the tread surface of the tire. When the preservation of the highway surface or the safety of the traveling public so indicates, the Department of Transportation shall have the authority to shorten or lengthen the period for the permissible use of such tires in any area of the state specifically designated by the department.

(8) School buses with a loaded weight of 10,000 pounds or more.

(9) Emergency vehicles and ambulances used in an emergency situation.

(10) Motor vehicles used for regularly scheduled medical transport services.

(11) The owner or lessee of any land adjoining any highway may move across or along the highway any tractor or implement of husbandry for the purpose of planting, cultivating, caring for or harvesting any

crop, on condition that the owner or lessee shall be liable to the State of Oregon for the benefit of the State Highway Fund with respect to state highways, or to the proper county for the benefit of the county road fund with respect to county highways, for any damage or injury done to the highway by the movement.

(12) Vehicles equipped with retractable studded tires as defined in ORS 815.045. [1983 c.338 §479; 1985 c.420 §7; 1997 c.493 §4; 2003 c.757 §1; 2007 c.406 §2]

815.167 Prohibition on selling studs other than lightweight studs; exemption. (1) Except as provided in subsection (4) of this section, a tire dealer may not sell a tire equipped with studs that are not lightweight studs.

(2) A tire dealer may not sell a stud other than a lightweight stud for installation in a tire.

(3) As used in this section:

(a) "Lightweight stud" means a stud that is recommended by the manufacturer of the tire for the type and size of the tire and that:

(A) Weighs no more than 1.5 grams if the stud is size 14 or less;

(B) Weighs no more than 2.3 grams if the stud size is 15 or 16; or

(C) Weighs no more than 3.0 grams if the stud size is 17 or larger.

(b) "Tire dealer" means a person engaged in a business, trade, occupation, activity or enterprise that sells, transfers, exchanges or barters tires or tire related products for consideration.

(4) A tire dealer may sell a tire equipped with studs that are not lightweight studs if the studs are retractable. [1995 c.701 §2; 1997 c.493 §5; 2007 c.406 §3]

815.170 Operation without pneumatic tires; civil liability; penalty. (1) A person commits the offense of operation without pneumatic tires if the person does any of the following:

(a) Drives, operates or moves on a highway any vehicle or combination of vehicles that is not equipped with pneumatic tires made of elastic material.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven, operated or moved on a highway when not equipped with pneumatic tires made of elastic material. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 815.175.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, operation without pneumatic tires, is a Class C traffic violation. [1983 c.338 §480; 1985 c.393 §20]

815.175 Exemptions from pneumatic tire requirement. This section establishes exemptions from ORS 815.170. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions are partial or complete as described in the following:

(1) Vehicles are not subject on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) Vehicles are not subject on any road, thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(3) Operation authorized under the terms of a variance permit issued under ORS 818.200 is subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 815.170 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.

(4) ORS 815.170 does not apply to any implement of husbandry that is equipped with any tires made of elastic material other than pneumatic tires or with tires made with any nonelastic material that are not prohibited under ORS 815.160 and that has a loaded weight of not more than 7,000 pounds and a loaded weight as measured at any axle of not more than 3,500 pounds.

(5) Vehicles of special interest that are registered under ORS 805.020 are deemed in compliance if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(6) ORS 815.170 does not apply to road machinery, road rollers or farm tractors.

(7) ORS 815.170 does not apply to antique vehicles if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property. [1983 c.338 §481; 1985 c.16 §250; 1997 c.402 §10]

(Mudguards, Fenders)

815.180 Standards. This section designates fender and mudguard standards for ORS 815.185. Except as specifically provided by an exemption under ORS 815.190, a vehicle is in violation of ORS 815.185 if the vehicle is not equipped with fenders or mudguards as required under ORS 815.185 or if the fenders or mudguards do not meet the standards of this section or are not of the type required by this section. The standards for fenders and mudguards are as follows:

(1) There are three different types of fenders and mudguards. Any vehicle required to have fenders and mudguards may be equipped with any fender, cover, flap or splash apron to comply with the requirements of ORS 815.185 for fenders and mudguards as long as the fenders and mudguards meet all of the following standards:

(a) The width of any fender or mudguard required under this section must be of sufficient size so that the fender or mudguard extends at least to each side of the width of the tire or combined width of the multiple tires when measured against the cross section of the tread of the wheel or the combined cross sections of the treads of the multiple wheels.

(b) Any fender or mudguard required under this section must be of sufficient size and must be so constructed as to be capable at all times of arresting and deflecting any dirt, mud, water or other substance that may be picked up and carried by the wheels.

(2) The following types of fenders or mudguards must cover the wheels of the vehicle in the manner described in paragraphs (a), (b) and (c) of this subsection:

(a) Type I fenders or mudguards must extend in full width from a point on the wheels that is above and forward of the center of the tires over to a point at the rear of the wheels that is not more than 10 inches, or, if attached to the rear of a dump box that elevates for unloading, not more than 13 inches, above the surface of the highway when the vehicle is empty.

(b) Type II fenders or mudguards must extend downward in full width from a point behind the wheels that is not lower than halfway between the center of the wheels and the top of the tires to a point at the rear of the wheels that is not more than 10 inches above the surface of the highway when the vehicle is empty.

(c) Type III fenders or mudguards must extend in full width from a point on the wheels that is above and forward of the center of the tire over a point at the rear of the wheel that is not more than 27 inches above the surface of the highway. [1983 c.338 §483; 1985 c.16 §252; 1993 c.314 §2; 2001 c.335 §9; 2003 c.158 §13]

815.182 Kinds of fenders or mudguards required for specified vehicles; placement. (1) The following types of vehicles must be equipped with the proper type of fenders or mudguards as described in ORS 815.180 (2):

(a) Type I fenders or mudguards shall be within five feet of the tire tread of the tires on the last axle of:

(A) Every motor truck equipped with a body that has a registration weight of 8,000 pounds or more.

(B) Every trailer except one otherwise described in this subsection.

(C) Every commercial bus.

(b) Type II fenders or mudguards shall be within four feet of the tire tread of the tires on the last axle of:

(A) Every motor truck with a registration weight of 8,000 pounds or more that is not equipped with a body.

(B) A pole trailer.

(C) A jeep used in the movement of nondivisible heavy haul loads.

(D) A booster.

(E) A lowboy.

(F) A container chassis. For purposes of this subparagraph, a container chassis is a frame with wheels, attached to a tractor, that is used to transport containers to and from ports, rail hubs and customer locations.

(c) Type III fenders or mudguards shall be on each axle of every motor vehicle not otherwise described in this section.

(2) For purposes of this section, a truck tractor and a semitrailer coupled together shall be considered one vehicle. [1993 c.314 §3; 1997 c.722 §7; 2001 c.335 §8]

815.185 Operation without proper fenders or mudguards; penalty. (1) A person commits the offense of operation without proper fenders or mudguards if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a vehicle without fenders or mudguards as required by ORS 815.182, or if the fenders or mudguards fail to meet the standards for fenders and mudguards established under ORS 815.180.

(2) Exemptions to this section are established under ORS 815.190.

(3) If a person who is cited for violation of the offense under this section submits evidence satisfactory to the court that the fenders or mudguards on the vehicle subject to the citation have been added, repaired or replaced to comply with the requirements of ORS 815.180 and 815.182, the court shall dismiss the charge for violation of the offense without penalty to the person.

(4) The offense described in this section, operation without proper fenders or mudguards, is a Class C traffic violation. [1983 c.338 §482; 1985 c.16 §251; 1993 c.314 §4; 1995 c.383 §26]

815.190 Exemptions from mudguard and fender requirements. This section establishes exemptions from ORS 815.182 and 815.185. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions established under this section are partial or complete as described in the following:

(1) Vehicles of special interest that are registered under ORS 805.020 are deemed in compliance with the requirements and standards if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(2) Road machinery, road rollers and farm tractors are exempt from the standards and requirements.

(3) Antique vehicles are exempt from the standards and requirements if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) A motor truck is exempt from the requirements to be equipped with fenders or mudguards if the vehicle has just a chassis that is not equipped for hauling a load.

(5) Fenders or mudguards are not required on any modified American-made pre-1935 vehicle, or any identifiable vintage or replica thereof that is titled as a later assembled vehicle or replica and is used for show and pleasure use when such vehicle is used and driven only during fair weather on well-maintained, hard-surfaced roads. [1983 c.338 §484; 1985 c.402 §12; 1993 c.314 §5; 1997 c.402 §11; 1999 c.170 §1; 2003 c.655 §120; 2015 c.138 §32]

(Visible Emissions)

815.195 Requirements and standards. This section establishes requirements for ORS 815.200. Except as specifically provided by an exemption under ORS 815.205, a vehicle is in violation of ORS 815.200 if the vehicle is required to comply with one of the following standards for visible emissions and the vehicle produces visible emissions that exceed those allowable under the described standard, as follows:

(1) A vehicle exceeds Visible Emission Standard I if the vehicle produces any visible emissions that include any gases or particulates, other than uncombined water, which separately or in combination are visible upon release to the outdoor atmosphere.

(2) A vehicle exceeds Visible Emission Standard II if the vehicle is operated at an elevation described under this subsection and the vehicle produces a visible emission in excess of that allowed under this subsection. Visible emissions limited under this subsection include any gases or particulates, other than uncombined water, which separately or in combination are visible upon release to the outdoor atmosphere. The limitations on visible emission under this subsection are limits on the percent of transmitted light that is obscured by the visible emission. A vehicle violates the standards under this subsection if the vehicle does any of the following:

(a) While operated at an elevation of 3,000 feet or less, releases emissions that obscure more than 10 percent of transmitted light. A vehicle is not in violation of this paragraph if the vehicle releases emissions that obscure 40 percent or less of transmitted light for not longer than seven consecutive seconds.

(b) While operated at an elevation of over 3,000 feet, releases emissions that obscure more than 20 percent of transmitted light. A vehicle is not in violation of this paragraph if the vehicle releases emissions that obscure 60 percent or less of transmitted light for not longer than seven consecutive seconds. [1983 c.338 §486; 1985 c.16 §253]

815.200 Violation of visible emission limits; penalty. (1) A person commits the offense of violation of visible emission limits if the person operates, drives and causes or permits to be driven on any highway:

(a) A motor vehicle, other than one described in paragraph (b) of this subsection, that has visible emissions exceeding visible emissions allowed under Visible Emission Standard I under ORS 815.195.

(b) A motor vehicle powered by compression ignition, two cycle or diesel cycle engines or a vehicle excluded by order of the

Environmental Quality Commission under ORS 468A.075 and the vehicle has visible emissions exceeding visible emissions allowed under Visible Emission Standard II under ORS 815.195.

(2) The exemptions from this section are established under ORS 815.205.

(3) The offense described in this section, violation of visible emission limits, is a Class D traffic violation. [1983 c.338 §485; 1985 c.393 §21]

815.205 Exemptions from visible emission limits. This section establishes exemptions from ORS 815.195 and 815.200. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions under this section are partial or complete as described in the following:

(1) Motor vehicles registered as farm vehicles under ORS 805.300 are not subject to the limits on visible emissions.

(2) Vehicles of special interest and antique vehicles are not subject to the limits on visible emissions if the vehicles are maintained as a collectors' item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(3) The visible emission limits apply only in counties having a population over 50,000 according to the 1970 federal decennial census that are located west of the summit of the Cascade Mountains. The summit of the Cascade Mountains is determined for purposes of this subsection by the line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [1983 c.338 §487]

(Windows)

815.210 Operation of vehicle without approved material in windows; exemptions; penalty. (1) A person commits the offense of operation of a vehicle without approved materials in windows if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle with a windshield or windows that do not conform to the standards established by the Department of Transportation under ORS 815.040.

(2) This section does not apply to the following vehicles:

(a) Any motor vehicle manufactured on or before January 1, 1954, and registered in this state. The exemption under this paragraph does not apply to windshields or windows that have been replaced after January 1, 1954.

(b) Vehicles of special interest that are registered under ORS 805.020 and that are:

(A) Equipped with original manufacturer's equipment and accessories, or their equivalent, that are maintained in safe operating condition; or

(B) Street rods that conform to ORS 815.107.

(c) Road machinery, road rollers or farm tractors.

(d) Antique vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(3) The vehicle exemptions under this section are also exemptions from the prohibitions under ORS 815.090 against replacing vehicle window or windshield with any unapproved material as provided in that section.

(4) The offense described in this section, operation of a vehicle without approved materials in windows, is a Class C traffic violation. [1983 c.338 §488; 1985 c.16 §254; 1985 c.393 §22; 1997 c.402 §12; 2003 c.158 §6]

815.215 Failure to have windshield wipers; exemptions; penalty. (1) A person commits the offense of failure to have windshield wipers if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle that has a windshield and that is not equipped with windshield wipers that meet the requirements under this section.

(2) Windshield wipers meet the requirements of this section if the windshield wipers are designed for cleaning rain or other moisture from the windshield and so constructed as to be controlled or operated by the driver of the vehicle.

(3) This section does not apply to the following vehicles:

(a) Vehicles of special interest that are registered under ORS 805.020 and that are:

(A) Equipped with original manufacturer's equipment and accessories, or their equivalent, and that are maintained in safe operating condition; or

(B) The vehicles are street rods that conform to ORS 815.107.

(b) Road machinery, road rollers or farm tractors.

(c) Antique vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but

not used primarily for the transportation of persons or property.

(d) Motorcycles.

(4) The offense described in this section, failure to have windshield wipers, is a Class C traffic violation. [1983 c.338 §489; 1997 c.402 §13; 2003 c.158 §14]

815.220 Obstruction of vehicle windows; penalty. (1) A person commits the offense of obstruction of vehicle windows if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any vehicle with windows obstructed in a manner prohibited under this section.

(2) The windows of a vehicle are obstructed in a manner prohibited by this section if any material that prevents or impairs the ability to see into or out of the vehicle is upon any vehicle window described in this subsection. This subsection applies to any sign, poster, one-way glass, adhesive film, glaze application or other material if the material prevents or impairs the ability to see into or out of the vehicle. This subsection only applies to the following windows of the vehicle:

(a) The front windshield.

(b) The side-wings.

(c) The side windows on either side forward of or adjacent to the operator's seat.

(3) Nothing in this section prohibits safety glazing materials of a type that conforms to standards established under ORS 815.040.

(4) Nothing in this section prohibits placement of permits in accordance with the provisions of ORS 803.650 or with rules adopted by the Department of Transportation under ORS 803.650.

(5) Nothing in this section prohibits the application of tinting material to the windows of a motor vehicle in compliance with ORS 815.221.

(6) The offense described in this section, obstruction of vehicle windows, is a Class D traffic violation. [1983 c.338 §490; 1985 c.16 §255; 1987 c.166 §5; 1995 c.263 §4; 1995 c.383 §91; 2003 c.158 §5; 2013 c.199 §1]

815.221 Tinting; authorized and prohibited materials; certificate. (1) Notwithstanding any other provision of law, a person may apply tinting material to the windows of a motor vehicle in compliance with this section.

(2) Tinting material may be applied to the side and rear windows of a motor vehicle if:

(a) The tinting material has a light transmittance of 50 percent or more;

(b) The tinting material has a light reflectance of 13 percent or less; and

(c) The total light transmittance through the window with the tinting material applied is 35 percent or more.

(3) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to the top six inches of a windshield. Tinting material may not be applied to any other portion of the windshield.

(4) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to all windows of a multipurpose passenger vehicle that are behind the driver. This subsection applies only to vehicles that are equipped with rearview mirrors on each side of the vehicle. The windows as tinted shall meet the requirements for AS-3 glazing material established by federal regulation. For purposes of this subsection, a "multipurpose passenger vehicle" is a motor vehicle with motive power that is designed to carry 10 or fewer persons and is constructed either on a truck chassis or with special features for occasional off-road operation.

(5) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to the side and rear windows of a vehicle registered in the name of a person, or the person's legal guardian, if the person has any of the following documents signed by a validly licensed physician or optometrist stating that the person or another person in the person's household has a physical condition requiring window tinting that produces a lower light transmittance than allowed by this section:

(a) An affidavit.

(b) A prescription.

(c) A letter on the practitioner's letterhead.

(6) The document required by subsection (5) of this section shall be kept in the vehicle and shall be shown to a police officer who inquires about the tint.

(7) There are no light transmittance requirements for glazing materials applied to AS-3 type windows.

(8) The following types of tinting material are not permitted:

(a) Mirror finish products.

(b) Red, gold, yellow, amber or black material.

(c) Tinting material that is in liquid preapplication form and is brushed or sprayed on.

(9) Each person who installs window tinting material in compliance with this section shall give the person who requested the installation a certificate stating:

(a) The name and address of the person who installed the tint;

(b) The light transmittance of the tinting material;

(c) The light reflectance of the tinting material; and

(d) That the total light transmittance through each window with the tinting material applied is not less than 35 percent.

(10) The certificate issued under subsection (9) of this section shall be kept in the motor vehicle and shall be shown to a police officer who inquires about the tint.

(11) Prohibitions and penalties related to the standards established under this section are provided under ORS 815.222. [1995 c.263 §2; 2003 c.158 §8; 2015 c.579 §1]

815.222 Illegal window tinting; dismissal; penalty. (1) A person commits the offense of illegal window tinting if the person applies window tinting material that does not comply with ORS 815.221 or applies window tinting material to a window of a motor vehicle that is not authorized by ORS 815.221 to be equipped with window tinting material.

(2) A person commits the offense of operating a vehicle with illegal window tinting if the person operates a vehicle registered or required to be registered in Oregon that is equipped with window tinting material that is not in compliance with or authorized by ORS 815.221.

(3) Each offense described in this section is a Class B traffic violation.

(4) A court may dismiss a citation issued for violation of subsection (2) of this section, or reduce the fine that the court would otherwise have imposed for the offense, if the defendant establishes to the satisfaction of the court that after the citation for the offense was issued the windows of the vehicle were modified to comply with the requirements of ORS 815.221. In determining whether the windows of the vehicle were modified to comply with the requirements of ORS 815.221, the court may consider:

(a) A receipt from a business for removing nonconforming window tinting or installation of conforming window tinting;

(b) A written statement by a law enforcement officer indicating that the window tinting was modified to comply with the requirements of ORS 815.221; and

(c) Any other evidence produced by the defendant to show modification or removal of the nonconforming window tinting.

(5) A court may dismiss a citation issued for violation of subsection (2) of this section, or reduce the fine that the court would otherwise have imposed for the offense, if the defendant establishes to the satisfaction of the court that at the time the citation for the offense was issued the person or another person in the person's household had a physical condition requiring window tinting that produces a lower light transmittance than allowed by ORS 815.221. In determining whether the person or another person in the person's household had a physical condition that requires window tinting that produces a lower light transmittance, the court may consider any of the following documents signed by a validly licensed physician or optometrist stating that the person has a physical condition requiring window tinting that produces a lower light transmittance than allowed by ORS 815.221:

(a) An affidavit.

(b) A prescription.

(c) A letter on the practitioner's letterhead. [1995 c.263 §3; 2013 c.216 §1; 2015 c.579 §2]

(Horns, Sound Equipment)

815.225 Violation of use limits on sound equipment; exemptions; penalty. (1) A person commits the offense of violation of use limits on sound equipment if the person does any of the following:

(a) Uses upon a vehicle, any bell, siren, compression or exhaust whistle.

(b) Uses a horn otherwise than as a reasonable warning or makes any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(2) Authorized emergency vehicles and ambulances are not subject to this section but are subject to ORS 820.370 and 820.380.

(3) The offense described in this section, violation of use limits on sound equipment, is a Class C traffic violation. [1983 c.338 §491]

815.230 Violation of sound equipment requirements; exemptions; penalty. (1) A person commits the offense of violation of vehicle sound equipment requirements if the person drives or moves on any highway or owns and causes or knowingly permits to be driven on any highway any vehicle that violates any of the following equipment provisions:

(a) A motor vehicle must be equipped with a horn in good working order, capable of emitting sounds audible under normal conditions from a distance of not less than 200 feet.

(b) No vehicle shall be equipped with any bell, siren, compression or exhaust whistle.

(2) This section is subject to the exemptions under this subsection in addition to any exemptions under ORS 801.026. The exemptions under this subsection are partial or complete as described in the following:

(a) Authorized emergency vehicles are subject to sound equipment requirements and limitations as provided in ORS 820.370 and 820.380.

(b) Vehicles of special interest that are registered under ORS 805.020 are not subject to this section if the vehicles are:

(A) Equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating condition; or

(B) Street rods that conform to ORS 815.107.

(c) Bicycles are subject to requirements and limitations on sound equipment as provided under ORS 815.280.

(d) Antique vehicles are not subject to the requirements if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(e) The requirements do not apply to road machinery, road rollers and farm tractors.

(f) Electric personal assistive mobility devices are subject to requirements and limitations on sound equipment as provided under ORS 815.284.

(3) The offense described in this section, violation of vehicle sound equipment requirements, is a Class C traffic violation. [1983 c.338 §492; 1985 c.16 §256; 1997 c.402 §14; 2003 c.341 §16]

(Sound System Amplification)

815.232 Unreasonable sound amplification from a vehicle; penalty. (1) A person commits the offense of causing unreasonable sound amplification from a vehicle if the person operates, or permits the operation of, any sound amplification system which is plainly audible outside of a vehicle from 50 or more feet when the vehicle is on a public highway or on premises open to the public, unless that system is being operated to request assistance or warn of a hazardous situation.

(2) Subsection (1) of this section does not apply to:

(a) Vehicles being operated outside of an urban growth boundary;

(b) Emergency vehicles as defined in ORS 801.260;

(c) Vehicles operated by utilities defined under ORS 757.005, 758.505 or 759.005, or telecommunications carriers as defined in ORS 133.721;

(d) Sound systems of vehicles used for advertising, or in parades, political or other special events, except that the use of sound systems on those vehicles may be prohibited by a local authority by ordinance or resolution;

(e) Audio alarm systems installed in vehicles; or

(f) Federal Communications Commission licensed two-way radio communications systems.

(3) As used in subsection (1) of this section, "plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener including, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensible musical rhythms or vocal sounds.

(4) The offense described in this section, causing unreasonable sound amplification from a vehicle, is a Class D traffic violation. [1991 c.601 §3; 1995 c.383 §27; 1999 c.1093 §19]

Note: 815.232 and 815.233 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 815 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

815.233 Enhancement of penalty for violation of ORS 815.232. A person otherwise convicted of a violation under ORS 815.232 (4) commits a misdemeanor if:

(1) The person has been convicted of three or more violations of ORS 815.232 (1) within 12 months immediately preceding the commission of the offense; and

(2) The prior convictions are admitted by the defendant or alleged in the accusatory pleading. [1991 c.601 §4; 1999 c.1051 §92]

Note: See note under 815.232.

(Mirrors)

815.235 Operation without rearview mirror; exemptions; penalty. (1) A person commits the offense of operation without a rearview mirror if the person does any of the following:

(a) Drives or moves on any highway any motor vehicle that is not equipped with a rearview mirror or device that meets the requirements under this section.

(b) Owns a motor vehicle and causes or knowingly permits the vehicle to be driven or moved on any highway when the vehicle is not equipped with a rearview mirror or device that meets the requirements under this section.

(2) A rearview mirror or device only meets the requirements of this section if it enables the driver of the vehicle to have such a clear and unobstructed view of the rear at all times and under all conditions of load as will enable the driver to see any other vehicle approaching from not less than 200 feet in the rear on an unobstructed road.

(3) This section does not apply to the following vehicles:

(a) Vehicles of special interest that are registered under ORS 805.020 and that were not equipped with rearview mirrors when originally manufactured.

(b) Road machinery, road rollers or farm tractors.

(c) Antique vehicles that are registered under ORS 805.010 and that were not equipped with rearview mirrors when originally manufactured.

(4) The offense described in this section, operation without a rearview mirror, is a Class C traffic violation. [1983 c.338 §493; 1985 c.69 §3; 2015 c.138 §33]

815.237 Forward crossview mirror; failure to inspect; exemptions; penalty. (1) As used in this section, "forward crossview mirror" means a mirror or device that enables the driver of a motor truck to have a clear and unobstructed view of persons or objects directly in front of the motor truck.

(2) A person commits the offense of failure to inspect if the person operates a motor truck with a combined weight of more than 10,000 pounds used in commercial delivery and the person:

(a) Operates the motor truck without a forward crossview mirror; or

(b) Fails to visually inspect the intended path of the vehicle to verify that the path is free of persons or objects before the person reenters the motor truck.

(3) This section does not apply to:

(a) Commercial buses;

(b) Tow vehicles;

(c) Vehicles owned or operated by the United States or by any governmental jurisdiction within the United States except when owned or operated as a carrier of property for hire;

(d) Vehicles owned or operated by a mass transit district created under ORS chapter 267; or

(e) Vehicles used for solid waste or recycling collection.

(4) The offense described in this section, failure to inspect, is a Class C traffic violation. [2007 c.794 §3]

Note: 815.237 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 815 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

(Image Display Devices)

815.240 Unlawful use of image display device; exemptions; penalty. (1) As used in this section, "image display device" means equipment capable of displaying to the driver of a motor vehicle:

(a) A broadcast television image; or

(b) A visual image from a digital video disc or video cassette player.

(2) Except as provided in subsection (3) of this section, a person commits the offense of unlawful use of an image display device if the person drives or moves on any highway, or owns and causes or knowingly permits to be driven or moved on any highway, any motor vehicle equipped with any image display device that is displaying a broadcast television image or a visual image from a digital video disc or video cassette player that is visible to the driver while operating the motor vehicle.

(3) Subsection (2) of this section does not apply to:

(a) Emergency vehicles; or

(b) Use of image display devices that are displaying images for navigational purposes.

(4) The offense described in this section, unlawful use of an image display device, is a Class B traffic violation. [1983 c.338 §494; 1985 c.69 §4; 2005 c.572 §1]

(Clearance)

815.245 Violation of minimum clearance requirements for passenger vehicles; penalty. (1) A person commits the offense of violation of minimum clearance requirements for passenger vehicles if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any passenger motor vehicle that does not have the clearance from the surface of the roadway required by this section.

(2) A vehicle does not have the clearance from the surface of the roadway required by this section if any portion of the vehicle, other than the wheels, has less clearance from the surface of a level roadway than the clearance between the roadway and the lowest portion of any rim of any wheel in contact with the roadway.

(3) The offense described in this section, violation of minimum clearance requirements for passenger vehicles, is a Class B traffic violation. [1983 c.338 §495]

(Exhaust System)

815.250 Operation without proper exhaust system; exemptions; penalty. (1) A person commits the offense of operation without proper exhaust system if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle that is not equipped with an exhaust system that meets the requirements under this section.

(2) An exhaust system only meets the requirements of this section if all of the following apply:

(a) The exhaust system must be in good working order.

(b) The exhaust system must be in constant operation.

(c) The exhaust system must meet noise emission standards determined by the Department of Environmental Quality to be substantially equivalent to the following standards based upon a stationary test conducted at a distance of 25 feet in accordance with procedures established by the Department of Environmental Quality:

	Vehicle type	Maximum level, dBA	Model, Year
I.	Motor vehicles required to establish a registration weight under ORS 803.430 and commercial buses	94	before 1976
		91	1976 and after
II.	Motorcycles and mopeds	94	before 1976
		91	1976
		89	after 1976
III.	Motor vehicles not described under I or II	92	before 1976
		88	1976 and after

(3) This section does not apply to the following vehicles:

(a) Vehicles of special interest that are registered under ORS 805.020 and that are:

(A) Equipped with original manufacturer's equipment and accessories, or their equivalent, and that are maintained in safe operating condition; or

(B) Street rods that conform to ORS 815.107.

(b) Road machinery, road rollers or farm tractors.

(c) Antique vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) The court in its discretion may dismiss a citation issued for violation of the offense described in this section if evidence is presented that the exhaust system complies with or has been repaired or modified to comply with the requirements under this section.

(5) The offense described in this section, operation without proper exhaust system, is a Class C traffic violation. [1983 c.338 §496; 1985 c.16 §257; 1985 c.393 §23; 1997 c.402 §15; 2015 c.138 §34]

(Speedometer)

815.255 Operation of vehicle for hire without speedometer; exemptions; penalty. (1) A person commits the offense of operation of a vehicle for hire without a speedometer if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle used for carrying passengers for hire that is not equipped with a speedometer or other registering device capable of registering accurately the speed at which the vehicle is operated.

(2) This section is subject to the following exemptions in addition to any exemptions under ORS 801.026.

(a) A motor vehicle equipped with a governor or other regulating device to control its speed within the limits specified by law is not required to be equipped as this section specifies.

(b) Vehicles of special interest that are registered under ORS 805.020 are deemed in compliance with the requirements of this section if:

(A) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and maintained in safe operating condition; or

(B) The vehicles are street rods that conform to ORS 815.107.

(c) Antique vehicles are exempt from the requirements of this section if the vehicles are maintained as collector's items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(3) The offense described in this section, operation of a vehicle for hire without a speedometer, is a Class C traffic violation. [1983 c.338 §497; 1985 c.393 §24; 1997 c.402 §16; 2015 c.138 §35]

(Disposal System)

815.260 Operation of recreational vehicle with unsealed disposal system; exemption; penalty. (1) A person commits the offense of operation of a recreational vehicle with unsealed disposal system if:

(a) The person has the use, possession or control of any vehicle or structure constructed for movement on highways;

(b) The vehicle or structure is equipped with a plumbing, sink or toilet fixture; and

(c) The disposal system for the vehicle or structure is unsealed or uncapped while the vehicle or structure is in any way or place of whatever nature open to the use of the public.

(2) For purposes of this section, a way or place open to the use of the public includes, but is not limited to, highways, roads, streets, alleys, lanes, trails, beaches, parks and recreational use areas owned or operated by the state, a county or local municipality for use by the general public.

(3) This section does not apply to disposal systems being discharged into or connected with a sewage disposal system approved by the Oregon Health Authority.

(4) The offense described in this section, operation of a recreational vehicle with unsealed disposal system, is a Class C traffic violation. [1983 c.338 §498; 1985 c.16 §258; 1985 c.393 §25; 2009 c.595 §1147]

815.265 [1983 c.338 §499; repealed by 2001 c.335 §5]

(Loads)

815.270 Operating vehicle that is loaded or equipped to obstruct driver; penalty. (1) A person commits the offense of operating a vehicle that is loaded or equipped to obstruct the driver if the person is operating a vehicle that is loaded or equipped or where baggage or an encumbrance does any of the following:

(a) Substantially obstructs the driver's views to the rear, through one or more mirrors and otherwise.

(b) Obstructs the driver's view to the front or sides.

(c) Interferes with control of the driving mechanism.

(d) Prevents the free, unhampered operation of the vehicle by the driver.

(2) The offense described in this section, vehicle loaded or equipped to obstruct driver, is a Class C traffic violation. [1983 c.338 §500; 1985 c.16 §259]

815.275 Failure to mark end of load with light or flag when required; penalty. (1) A person commits the offense of failure to mark the end of a load with a light or flag when required if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any vehicle with a load that extends to the rear four feet or more beyond the bed or body of the vehicle and the person fails to:

(a) Place end load lights described under ORS 816.290 at the extreme rear end of the load, in addition to any other rear light required upon every vehicle, at times when limited visibility conditions exist; or

(b) At any other time, display at the extreme rear end of the load a red flag or cloth not less than 12 inches square.

(2) The offense described in this section, failure to mark end of load with light or flag when required, is a Class C traffic violation. [1983 c.338 §501]

(Bicycles)

815.280 Violation of bicycle equipment requirements; penalty. (1) A person commits the offense of violation of bicycle equipment requirements if the person does any of the following:

(a) Operates on any highway a bicycle in violation of the requirements of this section.

(b) Is the parent or guardian of a minor child or ward and authorizes or knowingly permits the child or ward to operate a bicycle on any highway in violation of the requirements of this section.

(2) A bicycle is operated in violation of the requirements of this section if any of the following requirements are violated:

(a) A bicycle must be equipped with a brake that enables the operator of the bicycle to stop the bicycle within 15 feet from a speed of 10 miles per hour on dry, level, clean pavement.

(b) A person shall not install or use any siren or whistle upon a bicycle. This paragraph does not apply to bicycles used by police officers.

(c) At the times described in the following, a bicycle or its rider must be equipped with lighting equipment that meets the described requirements:

(A) The lighting equipment must be used during limited visibility conditions.

(B) The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the bicycle.

(C) The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

(3) Nothing contained in this section shall be construed to prohibit the use of additional parts and accessories on any bicycle consistent with this section.

(4) The offense described in this section, violation of bicycle equipment requirements, is a Class D traffic violation. [1983 c.338 §502; 1985 c.16 §260; 1985 c.69 §5; 2003 c.158 §15; 2003 c.341 §17; 2007 c.821 §1; 2015 c.138 §27]

815.281 Selling noncomplying bicycle headgear; renting or leasing bicycle without having approved headgear available; penalties. (1) A person commits the offense of selling noncomplying bicycle equipment if the person sells or offers for sale any bicycle headgear that does not meet the standards established by the Department of Transportation under ORS 815.052.

(2) A person commits the offense of unlawfully renting or leasing a bicycle to another if the person:

(a) Is in the business of renting or leasing bicycles; and

(b) Does not have bicycle headgear approved under ORS 815.052 available for rental for use by persons under 16 years of age.

(3) The offenses described in this section are Class D traffic violations. [1993 c.408 §5; 2003 c.158 §16]

(Motorized Wheelchairs)

815.282 Operating motorized wheelchair on bicycle lane without proper lighting equipment. (1) A person commits the offense of operating a motorized wheelchair on a bicycle lane or path without proper lighting equipment if the person operates a motorized wheelchair on a bicycle lane or path and the person is not equipped with lighting equipment required of bicyclists under ORS 815.280.

(2) This section applies at the times described in ORS 815.280 for application of the lighting requirements of that section to bicyclists.

(3) The offense described in this section, operating a motorized wheelchair on a bicycle lane or path without proper lighting equipment, is a Class D traffic violation. [1991 c.417 §3b]

(Motor Assisted Scooters)

815.283 Violation of motor assisted scooter equipment requirements; penalty. (1) A person commits the offense of violation of motor assisted scooter equipment requirements if the person:

(a) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and authorizes or knowingly permits the child to operate a motor assisted scooter on any highway in violation of the requirements of this section; or

(b) Operates a motor assisted scooter on any highway during times of limited visibility conditions and the motor assisted scooter is not equipped with, or the person does not use, lighting equipment that meets the following requirements:

(A) If the motor assisted scooter is equipped with lighting equipment:

(i) The lighting equipment must include a white light visible from a distance of at least 300 feet to the front and sides of the motor assisted scooter;

(ii) The lighting equipment must have a red reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 500 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle; and

(iii) The lighting equipment must have a white or yellow reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 200 feet to the front of the motor assisted scooter.

(B) If the motor assisted scooter is not equipped with lighting equipment, the operator of the motor assisted scooter must wear:

(i) A white light mounted to be visible from all distances up to 300 feet to the front and sides of the motor assisted scooter;

(ii) A red reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 500 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle; and

(iii) A white or yellow reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 200 feet to the front of the motor assisted scooter.

(2) Nothing in this section prohibits the use of additional parts and accessories on

any motor assisted scooter not inconsistent with this section.

(3) The offense described in this section, violation of motor assisted scooter equipment requirements, is a Class D traffic violation. [2001 c.749 §19]

(Electric Personal Assistive Mobility Devices)

815.284 Violation of electric personal assistive mobility device equipment requirements; penalty. (1) A person commits the offense of violation of electric personal assistive mobility device equipment requirements if the person:

(a) Operates an electric personal assistive mobility device during times of limited visibility conditions and the electric personal assistive mobility device or the operator is not equipped with and using the following:

(A) A white light visible from a distance of at least 500 feet to the front and sides of the electric personal assistive mobility device; and

(B) A red reflector, lighting device or material of such size or characteristic as to be visible from all distances up to 600 feet to the rear when the electric personal assistive mobility device is directly in front of lawful lower beams of headlights on a motor vehicle; or

(b) Installs or uses any siren or whistle upon an electric personal assistive mobility device.

(2) Nothing in this section prohibits the use of additional parts and accessories not inconsistent with this section.

(3) The offense described in this section, violation of electric personal assistive mobility device equipment requirements, is a Class D traffic violation. [2003 c.341 §10]

(Warning Devices)

815.285 Failure to carry roadside vehicle warning devices; exemptions; penalty. (1) A person commits the offense of failure to carry roadside vehicle warning devices if:

(a) The person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any vehicle subject to the requirements to use roadside vehicle warning devices under ORS 811.530; and

(b) The vehicle does not carry such roadside vehicle warning devices as the Department of Transportation may require under ORS 815.035.

(2) This section does not apply to any of the following:

(a) Vehicles that are not subject to the requirements to use roadside vehicle warning devices under ORS 811.530.

(b) At any time between sunrise and sunset.

(c) To any vehicles operated within a business district or residence district.

(3) The offense described in this section, failure to carry roadside vehicle warning devices, is a Class C traffic violation. [1983 c.338 §503; 1985 c.16 §261; 1985 c.393 §26]

(Implements of Husbandry)

815.290 Exemptions from equipment requirements. (1) In addition to any other specific exemptions provided for implements of husbandry, implements of husbandry are exempt from any requirements under the following:

(a) ORS 815.075 and 815.100, relating to state requirements for vehicle equipment.

(b) ORS 811.515, 811.520, 816.040 to 816.290, 816.320, 816.330, 816.350 and 816.360, relating to requirements for and use of lighting equipment.

(c) ORS 815.125 and 815.130, relating to brake requirements.

(d) ORS 815.180 and 815.185, relating to fender and mudguard requirements and use.

(e) ORS 815.210, relating to material in windshields.

(f) ORS 815.215, relating to requirements for windshield wipers.

(g) ORS 815.230, relating to vehicle sound equipment.

(h) ORS 815.235, relating to rearview mirrors.

(i) ORS 815.240, relating to image display devices in vehicles. Limitations on the use of image display devices in implements of husbandry are provided in ORS 820.400.

(j) ORS 815.250, relating to vehicle exhaust and exhaust equipment.

(2) This section does not exempt implements of husbandry from the requirements for equipment and operation under ORS 820.400. [1983 c.338 §778; 1985 c.16 §375; 1985 c.69 §6; 2005 c.572 §2]

(Pollution Control Equipment)

815.295 Failure to have required pollution control equipment; exemptions; penalty. (1) A person commits the offense of failure to be equipped with required pollution control equipment if the person operates a motor vehicle upon a highway or leaves a motor vehicle standing upon a highway and the vehicle is not equipped with a motor vehicle pollution control system, as defined

under ORS 468A.350, that is in compliance with motor vehicle pollutant, noise control and emission standards adopted by the Environmental Quality Commission under ORS 468A.360.

(2) A person shall not be found in violation of this section if proof of compliance has been issued for the vehicle in compliance with ORS 815.310. Whenever proof of compliance is revoked, suspended or restricted because a certified system, as defined in ORS 468A.350, or factory-installed system, as defined in ORS 468A.350, has been found to be unsafe in actual use or is otherwise mechanically defective, the defect must be corrected or the system must be brought into compliance with the rules of the commission within 30 days after such finding.

(3) Exemptions to this section are established under ORS 815.300. In addition to such exemptions, the following exemptions to this section are established:

(a) If the Environmental Quality Commission adopts a rule under ORS 468A.360 requiring certified or factory-installed systems on motor vehicles registered in designated counties, such vehicles are not required to be in compliance with such rules until after the date of registration, reregistration or renewal of the vehicle immediately subsequent to the effective date of the rule.

(b) Implements of husbandry, road machinery, road rollers and farm tractors are exempt from this section.

(c) Antique vehicles maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property, are exempt from this section.

(4) The offense described in this section, failure to be equipped with required pollution control equipment, is a Class C traffic violation. [1983 c.338 §504; 1985 c.16 §262; 1985 c.393 §27; 1989 c.22 §3; 1995 c.383 §28]

815.300 Exemptions from requirement to be equipped with pollution control system. This section establishes exemptions from the requirements under ORS 815.295 to be equipped with a certified pollution control system. Exemptions established by this section are in addition to any exemptions established by ORS 801.026. The exemptions established in this section are also applicable to requirements for certification of pollution control equipment before registration under ORS 803.350 and 803.465. All of the following vehicles are exempt from the requirements under ORS 815.295:

(1) Any vehicle that is not a motor vehicle.

(2) Any vehicle unless the vehicle is registered within:

(a) The boundaries of the metropolitan service district formed under ORS chapter 268 for the metropolitan area, as defined in ORS 268.020, which includes the City of Portland, Oregon.

(b) Boundaries designated by the Environmental Quality Commission under ORS 468A.390.

(3) Any new motor vehicle or new motor vehicle engine when the registration results from the initial retail sale thereof.

(4) Any motor vehicle:

(a) Not registered in areas designated under subsection (2)(a) of this section, including any expansion of such boundary under subsection (2)(b) of this section, with a model year that predates by more than 20 years the year in which registration or renewal of registration is required; or

(b) Registered in areas designated under subsection (2)(a) of this section, including any expansion of such boundary under subsection (2)(b) of this section, with a model year of 1974 or earlier.

(5) Motor vehicles that are registered as farm vehicles under ORS 805.300 or apportioned farm vehicles under ORS 805.300.

(6) Special interest vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses but not used primarily for the transportation of persons or property.

(7) Fixed load vehicles.

(8) Vehicles that are proportionally registered under ORS 826.009 and 826.011 in accordance with agreements established under ORS 826.007.

(9) Electric motor vehicles. This subsection does not exempt hybrid motor vehicles that use electricity and another source of motive power.

(10) First response rescue units operated by political subdivisions of this state that are not used to transport persons who are ill or injured or who have disabilities.

(11) A vehicle that is currently registered in Oregon at the time application for new registration is received by the Department of Transportation if the new registration is a result of a change in the registration or plate type and the application is received at least four months prior to the expiration of the existing registration.

(12) Golf carts.

(13) Any Class I, Class II, Class III or Class IV all-terrain vehicle.

(14) An original equipment manufacturer vehicle that is engineered, designed, produced and warranted to use natural gas as its only fuel source.

(15) Racing activity vehicles. [1983 c.338 §505; 1985 c.16 §263; 1985 c.222 §5; 1987 c.349 §7; 1989 c.43 §35; 1991 c.15 §6; 1991 c.383 §4; 1993 c.791 §5; 1997 c.418 §1; 2001 c.293 §10; 2007 c.70 §348; 2007 c.693 §7; 2011 c.360 §20]

815.305 Disconnection or alteration of pollution control equipment; penalty. (1) A person commits the offense of unlawful disconnection or alteration of pollution control equipment if the person does any of the following:

(a) Disconnects or permits to be disconnected a factory installed motor vehicle air pollution control device or a factory-installed system, as defined in ORS 468A.350, or knowingly and willfully permits such device or factory-installed system to become or remain inoperative.

(b) Modifies or alters a certified system or factory-installed system, as defined in ORS 468A.350, in a manner that decreases its efficiency or effectiveness in the control of air pollution.

(c) Modifies or alters an installed, approved retrofit technology for which proof of certification has been issued under ORS 468A.810 in a manner that decreases its efficiency or effectiveness in the control of air pollution.

(2) The following exemptions to this section are established:

(a) This section does not apply when factory-installed motor vehicle air pollution control equipment, systems or devices are disconnected for the purpose of conversion to gaseous fuels including, but not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous form.

(b) This section is not intended to prohibit the use of replacement, conversion, turbocharger or other alternative components in a certified or factory-installed system if the components do not significantly affect the efficiency or effectiveness of the system in controlling air pollution.

(3) The offense described in this section, unlawful disconnection or alteration of pollution control equipment, is a Class A misdemeanor, but each day of violation does not constitute a separate offense. [1983 c.338 §506; 2019 c.645 §10]

815.310 Proof of compliance with requirements. When proof of compliance with pollution control equipment requirements is required under ORS 803.350, 803.465 and 815.295 the following apply:

(1) The proof may be provided by any means that the Department of Transportation and the Environmental Quality Commission determine by joint rulemaking or by interagency agreement to be satisfactory.

(2) Except as otherwise provided in this section, when a certificate of compliance is used as proof, the certificate must comply with all the following:

(a) It must be signed by a person licensed and qualified under ORS 468A.380.

(b) It must be dated not more than 180 days prior to the motor vehicle registration or renewal of registration.

(c) It must be on a form supplied by the Department of Environmental Quality and must include such information as the department may require.

(3) In order for registration to continue to be valid for a motor vehicle that is registered as a government-owned vehicle under ORS 805.040, a police undercover vehicle under ORS 805.060 or a state-owned vehicle with regular registration plates under ORS 805.045, the vehicle must be certified as frequently as a privately owned vehicle of the same registration type is required to be certified. For purposes of this subsection, the registration type of a privately owned vehicle is determined by the registration period for the vehicle under ORS 803.415. For local government vehicles, the proof of certification may be provided through self-testing facilities provided by local governmental agencies. Local governmental agencies providing self-testing facilities may not be charged a fee in connection with provision of the required proof. However, a reasonable fee covering department expenses in administering such self-testing programs may be charged. [1983 c.338 §215; 1985 c.16 §82; 1987 c.440 §6; 1989 c.22 §4; 1995 c.183 §1; 2003 c.61 §1; 2005 c.51 §1]

815.315 Use of improper certificate for pollution control system; penalty. (1) A person commits the offense of use of improper certificate for pollution control system if the person makes, issues or knowingly uses any imitation or counterfeit of a certificate of compliance described under ORS 468A.810 or 815.310.

(2) The offense described in this section, use of improper certificate for pollution control system, is a Class B traffic violation, but each day of violation does not constitute a separate offense. [1983 c.338 §216; 1995 c.383 §92; 2019 c.645 §11]

815.320 Unlawful certification of compliance with pollution control requirements; penalty. (1) A person commits the offense of unlawful certification of compliance with pollution control requirements if the person does any of the following:

(a) Falsely certifies that a motor vehicle is equipped with a functioning certified sys-

tem, as defined in ORS 468A.350, or that the motor vehicle complies with the rules and standards adopted by the Environmental Quality Commission under ORS 468A.360.

(b) Falsifies any information on the certificate of compliance described under ORS 815.310.

(c) Falsely certifies that a diesel engine has been retrofitted with approved retrofit technology under ORS 468A.810.

(d) Falsifies any information on the certificate of compliance described under ORS 468A.810.

(e) With a purpose to defraud or with intent, causes registration of a motor vehicle that would not otherwise be eligible for registration because of its failure to comply with:

(A) Rules and standards adopted by the Environmental Quality Commission under ORS 468A.360; or

(B) ORS 803.591.

(2) The offense described in this section, unlawful certification of compliance with pollution control requirements, is a Class A misdemeanor, but each day of violation does not constitute a separate offense. [1983 c.338 §217; 2019 c.645 §12]

815.325 Unlawfully requiring repair for certification of compliance with pollution control requirements; penalty. (1) A person commits the offense of unlawfully requiring repair for certification with pollution control requirements if the person requires as a condition of the issuance of a certification of compliance described under ORS 815.310 or proof of certification described under ORS 468A.810 any repairs or services unnecessary for compliance with ORS 803.591 or with rules or standards adopted under ORS 468A.350, 468A.355, 468A.365 and 468A.385.

(2) The offense described in this section, unlawfully requiring repair for certification of compliance with pollution control requirements, is a Class A misdemeanor, but each day of violation does not constitute a separate offense. [1983 c.338 §218; 2019 c.645 §13]

815.400 [1985 c.251 §8; 1987 c.119 §4; 1987 c.750 §11; 1989 c.43 §36; 1989 c.148 §17; repealed by 1991 c.873 §53]

(Odometer Offenses)

815.405 Department review of odometer disclosure statements. (1) The Department of Transportation may establish a program of reviewing department records and odometer disclosure statements to determine vehicles that may have incorrect odometer disclosures or on which the odometer may have been altered. The program may include any procedures the department determines appropriate including, but not limited to, the comparison of odometer disclosures for individual vehicles with statistical information on statistically average mileage for vehicles within a certain period of time.

(2) If the department determines under this section that it is likely that a vehicle or vehicles have incorrect odometer disclosures or have odometers that have been illegally altered, the department may do any of the following:

(a) Report the findings of the department to the owners or purchasers of the vehicles.

(b) Report the findings of the department to enforcement officials charged with enforcing laws relating to odometers, including, but not limited to, police officials, district attorneys or the Attorney General's office. [1985 c.251 §9; 1991 c.873 §18]

815.410 Illegal odometer tampering; prohibition; exceptions; civil action; penalty. (1) A person commits the offense of illegal odometer tampering if the person does any of the following:

(a) Advertises for sale, sells, uses or installs on any part of a motor vehicle or on any odometer in a motor vehicle any device which causes the odometer to register any mileage other than the true mileage driven. For the purposes of this paragraph the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

(b) With the intent to defraud, operates a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

(c) Replaces, disconnects, turns back or resets the odometer of any motor vehicle with the intent to reduce the number of miles indicated on the odometer gauge.

(2) This section does not apply to a person who is servicing, repairing or replacing an odometer in compliance with ORS 815.415.

(3) The owner or subsequent purchaser of a vehicle may bring an action in an appropriate court of this state against any person who violates this section and may recover from the person an amount of $1,500 or treble the actual damage caused by the violation. Only a single recovery is permitted under this subsection for any single violation of this section. The court may award reasonable attorney fees to the prevailing party in an action under this subsection.

(4) The offense described in this section, illegal odometer tampering, is a Class C felony. [Formerly 646.860; 1995 c.618 §137]

815.415 Unlawful repair of odometer; rules; civil action; penalty. (1) A person commits the offense of unlawful repair of an odometer if the person services, repairs or replaces the odometer on any vehicle and the person does not comply with all of the following:

(a) Whenever possible, the person shall perform the work on the odometer without changing the mileage reading from that shown on the odometer before the work is performed.

(b) If it is not possible to perform the work without changing the mileage reading, the person must do all of the following:

(A) Adjust the odometer reading to zero.

(B) Place a notice on the left door frame of the vehicle specifying the mileage reading prior to the work and the date the work was performed. A notice required under this subparagraph must be in writing and must be in a form established by the Department of Transportation by rule.

(C) Make an odometer disclosure in a form required by the department by rule and submit the disclosure to the department within 10 days of completing the work.

(2) The owner or any subsequent purchaser of a vehicle may bring an action in an appropriate court of this state against any person who violates this section and may recover from the person an amount of $500 or twice the actual damages caused by the violation, whichever is greater. Only a single recovery is permitted under this subsection for any single violation of this section. The court may award reasonable attorney fees to the prevailing party in an action under this section.

(3) A person is not subject to the requirements for work performed on vehicles that are exempt from odometer disclosure requirements under ORS 803.102.

(4) The offense described in this section, unlawful repair of an odometer, is a Class C misdemeanor. [1985 c.251 §4; 1991 c.873 §19; 1995 c.618 §138]

815.420 Unlawfully removing odometer repair notice; penalty. (1) A person commits the offense of unlawfully removing an odometer repair notice if the person removes any notice showing service, repair or replacement of an odometer with the mileage reading and the date of the work that has been placed on a vehicle in compliance with ORS 815.415.

(2) The offense described in this section, unlawfully removing an odometer repair notice, is a Class C misdemeanor. [1985 c.251 §5]

815.425 Failure to submit odometer disclosure; penalty. (1) A person commits the offense of failure to submit an odometer disclosure if the person is required by ORS 803.102, 803.370, 805.120 or 815.415 to submit an odometer disclosure and the person fails to submit the required odometer disclosure.

(2) The offense described in this section, failure to submit an odometer disclosure, is a Class C misdemeanor. [1985 c.251 §6; 1989 c.148 §18; 1991 c.67 §223; 1991 c.873 §20; 1993 c.751 §108]

815.430 Submitting false odometer disclosure; penalty. (1) A person commits the offense of submitting a false odometer disclosure if the person knowingly makes any false statement or provides any false information on an odometer disclosure form.

(2) The offense described in this section, submitting a false odometer disclosure, is a Class C felony. [1985 c.251 §7; 1991 c.873 §21]

(Traffic Control Signal Operating Devices)

815.440 Unauthorized possession, use or distribution of traffic control signal operating device; exemption; penalty. (1) A person commits the offense of unauthorized possession, use or distribution of a traffic control signal operating device if the person owns, uses, sells or otherwise distributes a device that is designed to control a traffic control light as a person using the device approaches the light.

(2) This section does not apply to persons operating traffic control signal operating devices as authorized by ORS 815.445.

(3) For purposes of ORS 133.555, a traffic control signal operating device is contraband if it is used by a person who is not authorized as provided in ORS 815.445 to use the device.

(4) The offense described in this section, unauthorized possession, use or distribution of a traffic control signal operating device, is a Class C misdemeanor. [1993 c.314 §14; 1993 c.522 §5; 1997 c.507 §1]

815.445 Authority to use traffic control signal operating devices; costs. (1) The owner of a traffic control signal may authorize use of a traffic control signal operating device by the following persons for the following purposes:

(a) An authorized operator in an emergency vehicle, in order to improve the safety and efficiency of emergency response operations.

(b) An authorized operator in a bus, in order to interrupt the cycle of the traffic control signal in such a way as to keep the green light showing for longer than it otherwise would. As used in this paragraph,

"bus" has the meaning given that term in ORS 184.675.

(c) An authorized operator in a traffic signal maintenance vehicle, in order to facilitate traffic signal maintenance activities.

(2) The owner of a traffic control signal who authorizes additional uses of a traffic control signal operating device, as authorized by this section, shall allocate the incremental costs, if any, of such additional uses to the additional users.

(3) A traffic control signal operating device used by an authorized person in an emergency vehicle shall preempt and override a device operated by any other person.

(4) A traffic control signal operating device used as authorized under this section must operate in such a way that the device does not continue to control the signal once the vehicle containing the device has arrived at the intersection, regardless of whether the vehicle remains at the intersection. [1997 c.507 §3]

(Vehicle Metering System)

815.555 Tampering with a vehicle metering system; penalty. (1) A person commits the offense of tampering with a vehicle metering system if the person:

(a) With the intent to defraud, operates a motor vehicle that is subject to the per-mile road usage charge imposed under ORS 319.885 on a highway knowing that the vehicle metering system is disconnected or nonfunctional.

(b) Replaces, disconnects or resets the vehicle metering system of a motor vehicle that is subject to the per-mile road usage charge imposed under ORS 319.885 with the intent of reducing the metered use recorded by the vehicle metering system.

(2) This section does not apply to a person who is servicing, repairing or replacing a vehicle metering system.

(3) As used in this section, "vehicle metering system" means a system used to record the metered use by a motor vehicle for the purpose of complying with the reporting requirements under ORS 319.920.

(4) Tampering with a vehicle metering system is a Class A traffic violation. [2013 c.781 §21]

Chapter 816

2019 EDITION

Vehicle Equipment: Lights

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ADOPTION AND ENFORCEMENT OF STANDARDS

816.010 Authority to adopt and enforce standards for lighting equipment; testing for compliance with standards. (1) The Department of Transportation shall adopt and enforce minimum standards for vehicle lighting equipment under ORS 816.040 to 816.290 including installation, adjustment and aiming and adjustment when in use on motor vehicles.

(2) As federal regulations concerning vehicle lighting equipment are subsequently amended or repealed, the department may consider subsequent federal vehicle lighting equipment standards and adopt standards with respect to any vehicle lighting equipment applicable to the same aspect of performance of the vehicle lighting equipment if the department determines that the subsequent federal standards are practicable, provide an objective standard and meet the need for vehicle safety.

(3) When the department has reason to believe that any lighting equipment, as it is being sold commercially, does not comply with established standards, the department may have the device tested by a recognized testing laboratory to determine if the lighting equipment complies with the standards adopted under this section.

(4) Standards adopted under this section must be consistent with vehicle standards established under federal regulations or by the Society of Automotive Engineers.

(5) Standards adopted by the department under this section supersede any equipment provision of the vehicle code applicable to the same aspect of performance that conflicts with a specific provision of a standard adopted by the department under this section with respect to compliance with safety standards in effect at the time of sale.

(6) The department shall continue to adopt equipment standards as required under other sections of the vehicle code if there are no standards under this section.

(7) The department may at any time purchase in the open market and submit to the testing laboratory one or more sets of any lighting equipment, and if the lighting equipment, upon testing, fails to meet the standards adopted for lighting equipment under this section, the department shall enforce the penalties set forth in ORS 816.030 to 816.300.

(8) Prohibitions and penalties relating to the standards adopted under this section are set forth in ORS 816.030 to 816.300. [1983 c.338 §447; 2003 c.158 §17]

816.020 Motor carriers under jurisdiction of Department of Transportation. With respect to motor carriers operated under the jurisdiction of the Department of Transportation, the department may adopt standard specifications at variance with the requirements and standards for vehicle lighting equipment under ORS 811.515 to 811.525 or 816.040 to 816.370 whenever standard specifications adopted by the Federal Motor Carrier Safety Administration are different from those established by those sections. The standard specifications so adopted by the department shall conform to standard specifications adopted by the Federal Motor Carrier Safety Administration for vehicles operating in interstate commerce. [1983 c.338 §448; 1985 c.16 §235; 1995 c.733 §89; 2003 c.158 §18]

NONCOMPLYING EQUIPMENT

816.030 Selling noncomplying lighting equipment; penalty. (1) A person commits the offense of selling noncomplying lighting equipment if the person sells or offers for sale for use upon or as part of the equipment of any vehicle any vehicle lighting equipment that does not comply with standards adopted by the Department of Transportation under ORS 816.010.

(2) The offense described in this section, selling noncomplying lighting equipment, is a Class D traffic violation. [1983 c.338 §453; 1995 c.383 §29; 2003 c.158 §19]

GENERAL REQUIREMENTS

816.040 Lighting equipment standards; effect of rules. ORS 816.040 to 816.290 establish requirements for ORS 816.300. Except where an exemption under ORS 816.310 specifically provides otherwise, any vehicle lighting that does not comply with ORS 816.040 to 816.290 violates ORS 816.300 and is subject to the penalty provided for in ORS 816.040 to 816.290. Each of the following is a requirement for lighting equipment described in ORS 816.040 to 816.290:

(1) Whenever ORS 816.040 to 816.290 specify either the distance from which lighting equipment shall render objects visible or the distance within which lighting equipment shall be visible, that distance of visibility, unless a different time or condition is expressly stated, shall be as determined:

(a) Under normal atmospheric conditions;

(b) At any time from sunset to sunrise or any other time when, due to insufficient light, persons and vehicles are not clearly discernible at a distance of 1,000 feet; and

(c) On a straight, level unlighted highway.

(2) Whenever ORS 816.040 to 816.290 specify the mounted height of lighting equip-

ment, the height shall be determined from the center of the lighting equipment to the level ground upon which the vehicle stands.

(3) Any standard provided for a piece of lighting equipment under ORS 816.040 to 816.290 is subject to being superseded by a rule adopted by the Department of Transportation as provided under ORS 815.030. [1983 c.338 §458 (1); 1985 c.16 §240 (1); 1985 c.69 §1 (1); 1985 c.71 §4 (1); 1985 c.393 §13 (1); 1985 c.420 §6 (1); 1995 c.733 §90]

REQUIREMENTS AND STANDARDS FOR SPECIFIC LIGHTS

816.050 Headlights; rules. Each of the following is a requirement for headlights as described:

(1) On vehicles required to be equipped with two or more headlights under ORS 816.320 and 816.330 the headlights shall be equally distributed on each side of the front of the vehicle. This subsection does not apply to motorcycles and mopeds.

(2) Headlights shall show a continuously burning light except that:

(a) When permitted under ORS 814.320, headlights for motorcycles or mopeds may have an upper beam that can be modulated between a high and lower brightness at a rate of 200 to 280 pulses per minute.

(b) A federally approved headlight flashing system may be used as emergency vehicle lights on police, fire, emergency or ambulance vehicles.

(3) Headlights shall show a white light described in Standard Number 108 of the Federal Motor Vehicle Safety Standards.

(4) Headlights shall show the light forward.

(5) The Department of Transportation shall adopt and enforce rules establishing minimum standards and specifications for headlights. The rules shall conform, insofar as practicable, to safety standards and specifications for vehicle lighting issued by the federal government or to standards and recommendations established by the Society of Automotive Engineers.

(6) When multiple beam headlights are used or when headlights are used in combination with auxiliary lights or passing lights, the lights shall be arranged on the vehicle so that the selection between distributions of light projected to different elevations may be selected by the driver at will or so that the selection can be made automatically.

(7) Headlights shall be aimed in accordance with rules adopted by the department. If headlights provide only a single distribution of light and are not supplemented by auxiliary lights, the single beam headlights shall be so aimed that when the vehicle is not loaded, none of the high intensity portion of the light shall, at a distance of 25 feet ahead of the vehicle, project higher than five inches below the level of the center of the lamp from which it comes, or higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead of the vehicle.

(8) The intensity of the light of single beam headlights shall be sufficient to reveal persons and vehicles upon a street or highway at a distance of at least 200 feet ahead of the vehicle to which they are attached.

(9) Headlights that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with standards adopted by the department under ORS 816.010.

(10) Headlights that are required under ORS 816.320 and 816.330 and any part for such headlight that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.

(11) Single beam headlights that are not supplemented by auxiliary lights shall be permitted on a motor vehicle in lieu of multiple beam headlights only if the single distribution of lights complies with any requirements for single beam headlights under this section. [1983 c.338 §458 (2); 1985 c.16 §240 (2); 1985 c.69 §1 (2); 1985 c.71 §4 (2); 1985 c.393 §13 (2); 1985 c.420 §6 (2); 1989 c.402 §8; 1991 c.769 §1; 2003 c.158 §20]

816.060 Auxiliary lights. (1) As used in this section, "auxiliary lights" means low beam auxiliary lights.

(2) When auxiliary lights are used in combination with headlights, the combination of lights shall be arranged on the vehicle so that the selection between distributions of light projected to different elevations may be selected by the driver at will or so that the selection can be made automatically.

(3) Auxiliary lights shall be wired in accordance with rules adopted by the Department of Transportation.

(4) Auxiliary lights shall be mounted, adjusted and aimed in accordance with rules adopted by the department.

(5) Auxiliary lights mounted on a vehicle for highway use shall be mounted at a height of 54 inches or less above the level surface upon which the vehicle stands. Auxiliary lights mounted higher than 54 inches are subject to any limitation on use under ORS 811.515 and 811.520.

(6) Auxiliary lights and any part for such light that tends to change the original design or performance must be of a type that com-

plies with standards adopted by the department under ORS 816.010.

(7) Auxiliary lights shall show a white light forward. [1983 c.338 §458 (3); 1985 c.16 §240 (3); 1985 c.69 §1 (3); 1985 c.71 §4 (3); 1985 c.393 §13 (3); 1985 c.420 §6 (3); 2003 c.158 §21]

816.070 Passing lights. (1) As used in this section, "passing lights" means high beam auxiliary lights.

(2) When passing lights are used in combination with headlights, the combination of lights shall be arranged on the vehicle so that the selection between distributions of light projected to different elevations may be selected by the driver at will or so that the selection can be made automatically.

(3) Passing lights shall be wired in accordance with rules adopted by the Department of Transportation.

(4) Passing lights shall be aimed in accordance with rules adopted by the department.

(5) Passing lights shall show a white light forward. [1983 c.338 §458 (4); 1985 c.16 §240 (4); 1985 c.69 §1 (4); 1985 c.71 §4 (4); 1985 c.393 §13 (4); 1985 c.420 §6 (4); 2003 c.158 §22]

816.080 Taillights. (1) Taillights shall be mounted on the rear of a vehicle.

(2) Except as otherwise provided in this section, when lighted, taillights shall emit a red light.

(3) When lighted, taillights shall emit a light plainly visible from a distance of 500 feet to the rear.

(4) Taillights may be constructed so as to include registration plate lights.

(5) Taillights shall be wired so as to be lighted whenever the headlights or auxiliary lights are lighted.

(6) Taillights that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with the standards adopted by the Department of Transportation.

(7) Taillights that are required under ORS 816.320 and 816.330 and any part for such light that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.

(8) On a motor vehicle that was manufactured before 1959, the taillight or the taillight assembly, if the taillight is combined with another light, may contain a blue or purple insert of not more than one inch in diameter. [1983 c.338 §458 (5); 1985 c.16 §240 (5); 1985 c.69 §1 (5); 1985 c.71 §4 (5); 1985 c.393 §13 (5); 1985 c.420 §6 (5); 1997 c.492 §1; 2003 c.158 §23]

816.090 Registration plate lights. Each of the following is a requirement for registration plate lights as described:

(1) A registration plate light shall be so constructed and placed as to illuminate the rear registration plate of the vehicle.

(2) A registration plate light may either be constructed as a separate light or as part of a taillight.

(3) A registration plate light shall show a white light.

(4) A registration plate light shall render the rear registration plate clearly legible from a distance of 50 feet to the rear.

(5) A registration plate light shall be wired so as to be lighted whenever the headlights or auxiliary lights are lighted. [1983 c.338 §458 (6); 1985 c.16 §240 (6); 1985 c.69 §1 (6); 1985 c.71 §4 (6); 1985 c.393 §13 (6); 1985 c.420 §6 (6)]

816.100 Brake lights. Each of the following is a requirement for brake lights as described:

(1) Brake lights shall be placed on the rear of the vehicle. Where more than one brake light is required under ORS 816.320 and 816.330 at least one brake light shall be placed on each side of the rear.

(2) Brake lights shall be constructed and located on a vehicle so as to give a signal of intention to stop.

(3) Brake lights shall emit a red light. If the motor vehicle was manufactured before 1959 and the brake light is combined with the taillight in a taillight assembly, the assembly may contain an insert as described under ORS 816.080.

(4) Except as provided in subsection (11) of this section, brake lights shall emit a steady burning light.

(5) Brake lights shall emit a light that is plainly visible and capable of being seen and distinguished from a distance of 500 feet to the rear of the vehicle in normal daylight.

(6) Brake lights required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such a manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.

(7) Brake lights shall not project a glaring or dazzling light.

(8) Brake lights may be incorporated with a taillight.

(9) Brake lights shall be activated upon application of the service brake.

(10) Brake lights required under ORS 816.320 and 816.330 or any parts for brake lights must comply with standards adopted by the Department of Transportation under ORS 816.010.

(11) Brake lights for motorcycles may flash intermittently, provided that the brake lights do not override the rear turn signal function. [1983 c.338 §458 (7); 1985 c.16 §240 (7); 1985 c.69 §1 (7); 1985 c.71 §4 (7); 1985 c.393 §13 (7); 1985 c.420 §6 (7); 1997 c.492 §2; 2003 c.158 §24]

816.110 Back-up lights. Back-up lights may be constructed either separately or in combination with another light. [1983 c.338 §458 (8); 1985 c.16 §240 (8); 1985 c.69 §1 (8); 1985 c.71 §4 (8); 1985 c.393 §13 (8); 1985 c.420 §6 (8)]

816.120 Turn signals. Each of the following is a requirement for turn signals as described:

(1) Turn signals shall be so constructed and located on a vehicle as to give a signal of intention to turn right or left.

(2) The following types of turn signals shall show light in the direction indicated:

(a) Front turn signal lights shall show light to the front of the vehicle.

(b) Rear turn signal lights shall show light to the rear of the vehicle.

(3) The following types of turn signals shall have the color of light indicated:

(a) Front turn signal lights may be white or amber.

(b) Rear turn signal lights may be red, amber or yellow. If the rear turn signal is red, the motor vehicle was manufactured before 1959 and the turn signal is combined with the taillight in a taillight assembly, the assembly may contain an insert as described under ORS 816.080.

(4) Turn signals shall be understandable in normal sunlight and at a distance of 500 feet at night.

(5) Turn signals that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with the standards adopted by the Department of Transportation.

(6) Turn signals that are required under ORS 816.320 and 816.330 and any part for such turn signals that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010. [1983 c.338 §458 (9); 1985 c.16 §240 (9); 1985 c.69 §1 (9); 1985 c.71 §4 (9); 1985 c.393 §13 (9); 1985 c.420 §6 (9); 1997 c.492 §3; 2003 c.158 §25]

816.130 Parking lights. Each of the following is a requirement for parking lights as indicated:

(1) Parking lights shall be on the roadway side of the vehicle when a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto.

(2) Parking lights shall exhibit a white or amber light visible to the front of the vehicle and a red light visible to the rear of the vehicle.

(3) Parking lights shall be visible from a distance of 500 feet to the front of the vehicle and from a distance of 500 feet to the rear of the vehicle. [1983 c.338 §458 (10); 1985 c.16 §240 (10); 1985 c.69 §1 (10); 1985 c.71 §4 (10); 1985 c.393 §13 (10); 1985 c.420 §6 (10)]

816.140 Cowl or fender lights. Cowl or fender lights shall emit an amber or white light without glare. [1983 c.338 §458 (11); 1985 c.16 §240 (11); 1985 c.69 §1 (11); 1985 c.71 §4 (11); 1985 c.393 §13 (11); 1985 c.420 §6 (11)]

816.150 High beam indicator. Each of the following is a requirement for a high beam indicator:

(1) A high beam indicator shall be constructed so as to be lighted when, and only when, the uppermost distribution of light from the headlights is in use.

(2) A high beam indicator shall be so designed and located that when lighted it will be readily visible to the driver of the vehicle so equipped.

(3) A high beam indicator shall be without glare to the driver of the vehicle so equipped. [1983 c.338 §458 (12); 1985 c.16 §240 (12); 1985 c.69 §1 (12); 1985 c.71 §4 (12); 1985 c.393 §13 (12); 1985 c.420 §6 (12)]

816.160 Rear mounted lighting system. Each of the following is a requirement for a rear mounted lighting system:

(1) A rear mounted lighting system shall have a green light, a yellow light and a red light.

(2) A rear mounted lighting system shall be constructed so that:

(a) The green light will be actuated when the accelerator is depressed;

(b) The yellow light will be actuated when the vehicle is moving forward or standing and idling, but not under power from its engine; and

(c) The red light will be actuated when the motor vehicle is being braked through the use of its braking system.

(3) The red and green lights of a rear mounted lighting system may be illuminated simultaneously. Otherwise, only one light of the system shall be illuminated at any one time and either the green or yellow lights shall be illuminated when the red lights are not illuminated.

(4) The lights of a rear mounted lighting system shall be capable of being seen and distinguished from a distance of 500 feet to the rear of the vehicle during normal daylight.

(5) Rear mounted lighting systems shall not project a glaring or dazzling light. [1983

c.338 §458 (13); 1985 c.16 §240 (13); 1985 c.69 §1 (13); 1985 c.71 §4 (13); 1985 c.393 §13 (13); 1985 c.420 §6 (13)]

816.170 Spotlights. Each of the following is a requirement for spotlights as indicated:

(1) Spotlights must be mounted, adjusted and aimed in accordance with standards adopted by the Department of Transportation.

(2) Spotlights and any part for such spotlights that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010. [1983 c.338 §458 (14); 1985 c.16 §240 (14); 1985 c.69 §1 (14); 1985 c.71 §4 (14); 1985 c.393 §13 (14); 1985 c.420 §6 (14); 2003 c.158 §26]

816.180 Reflectors. Each of the following is a requirement for reflectors as indicated:

(1) The following are the colors for the indicated type of reflector:

(a) Rear reflectors and rearward side reflectors shall be red.

(b) Forward side reflectors and intermediate side reflectors shall be amber.

(2) The following types of reflectors shall be placed as indicated:

(a) Rear reflectors shall be mounted on the rear of the vehicle. If more than one rear reflector is required under ORS 816.320 and 816.330, there shall be at least one rear reflector on either side of the rear of the vehicle. On pole trailers, rear reflectors may be mounted on each side of the bolster or load.

(b) Forward side reflectors shall be mounted on the side of the vehicle near the front of the vehicle.

(c) Intermediate side reflectors shall be mounted on the side of the vehicle at or near the midpoint between the forward side reflectors and the rearward side reflectors.

(d) Rearward side reflectors shall be mounted on the side of the vehicle near the rear of the vehicle.

(3) Reflectors shall be mounted on a vehicle at a height not less than 15 inches and not more than 60 inches above the ground on which the vehicle stands.

(4) Reflectors shall be of such size or characteristics and so mounted and maintained as to be readily visible at night within 500 feet to 50 feet from the vehicle when directly in front of lawful upper beams of headlights.

(5) Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides and those mounted on the rear shall reflect the required color to the rear.

(6) Reflectors required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.

(7) Reflectors that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with standards adopted by the Department of Transportation.

(8) Reflectors that are required under ORS 816.320 and 816.330 and any part for such reflectors that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.

(9) Rear reflectors may be constructed either as a separate reflector or as part of and incorporated with the taillights. [1983 c.338 §458 (15); 1985 c.16 §240 (15); 1985 c.69 §1 (15); 1985 c.71 §4 (15); 1985 c.393 §13 (15); 1985 c.420 §6 (15); 2003 c.158 §27]

816.190 Marker lights. Each of the following is a requirement for marker lights as indicated:

(1) The following types of marker lights shall be placed as indicated:

(a) Forward side marker lights shall be mounted on the side of the vehicle at or near the front.

(b) Intermediate side marker lights shall be mounted on the side of the vehicle at or near the midpoint between the forward side marker lights and the rearward side marker lights.

(c) Rearward side marker lights shall be mounted on the side of the vehicle at or near the rear.

(2) The following are the colors for the indicated type of marker lights:

(a) Rearward side marker lights shall be red.

(b) Forward side marker lights and intermediate side marker lights shall be amber.

(3) Side marker lights may be mounted in combination with clearance lights if illumination is given as required with reference to both.

(4) Marker lights that are required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.

(5) Marker lights shall be capable of being seen and distinguished at a distance of 500 feet directly from that part of the vehicle on which the lights are placed. [1983 c.338 §458 (16); 1985 c.16 §240 (16); 1985 c.69 §1 (16); 1985 c.71 §4 (16); 1985 c.393 §13 (16); 1985 c.420 §6 (16)]

816.200 Clearance lights. Each of the following is a requirement for clearance lights as indicated:

(1) The following types of clearance lights shall be placed as indicated:

(a) Front clearance lights shall be placed on the front of the vehicle. When more than one front clearance light is required under ORS 816.320 and 816.330, at least one front clearance light shall be on each side of the front of the vehicle.

(b) Rear clearance lights shall be placed on the rear of the vehicle. When more than one rear clearance light is required under ORS 816.320 and 816.330, at least one rear clearance light shall be on each side of the rear of the vehicle.

(2) The following are the colors for indicated type of clearance lights:

(a) Front clearance lights shall be amber.

(b) Rear clearance lights shall be red.

(3) Clearance lights shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and shall be mounted as near the top of the vehicle as practicable.

(4) Clearance lights may be mounted in combination with side marker lights if illumination is given as required with reference to both.

(5) Clearance lights that are required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.

(6) Clearance lights shall be capable of being seen and distinguished at a distance of 500 feet directly from that part of the vehicle on which the lights are placed. [1983 c.338 §458 (17); 1985 c.16 §240 (17); 1985 c.69 §1 (17); 1985 c.71 §4 (17); 1985 c.393 §13 (17); 1985 c.420 §6 (17)]

816.210 Identification lights. Each of the following is a requirement for identification lights:

(1) An identification light is a group of three lights mounted at the same height with the centers of the lights in the group of lights spaced not less than 6 inches nor more than 12 inches apart.

(2) The following types of identification lights shall be placed as indicated:

(a) Front identification lights shall be placed on the front of the vehicle.

(b) Rear identification lights shall be placed on the rear of the vehicle.

(3) Identification lights shall be mounted as close as practicable to the top of the vehicle.

(4) Identification lights shall be mounted as close as practicable to the vertical centerline of the vehicle on that part of the vehicle where the identification lights are mounted.

(5) Front identification lights shall be an amber color. Rear identification lights shall be a red color.

(6) Identification lights that are required ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.

(7) Identification lights shall be capable of being seen and distinguished at a distance of 500 feet directly from that part of the vehicle on which the lights are placed. [1983 c.338 §458 (18); 1985 c.16 §240 (18); 1985 c.69 §1 (18); 1985 c.71 §4 (18); 1985 c.393 §13 (18); 1985 c.420 §6 (18)]

816.220 Exempt-vehicle safety lighting equipment. Each of the following is a requirement for exempt-vehicle safety lighting equipment:

(1) Exempt-vehicle safety lighting equipment shall consist of at least two lighted lights or lanterns.

(2) The following are the colors for the indicated type of exempt-vehicle safety lighting equipment indicated:

(a) The exempt-vehicle safety lighting equipment that exhibits a light to the front of the vehicle shall exhibit a white light in that direction.

(b) The exempt-vehicle safety lighting equipment that exhibits a light to the rear of the vehicle shall exhibit a red light in that direction.

(3) At least one piece of exempt-vehicle safety lighting equipment shall exhibit a light visible to the front of the vehicle and at least one shall exhibit a light visible to the rear of the vehicle.

(4) Exempt-vehicle safety lighting equipment shall be visible from a distance of 500 feet from the direction that the light is required to be visible. [1983 c.338 §458 (19); 1985 c.16 §240 (19); 1985 c.69 §1 (19); 1985 c.71 §4 (19); 1985 c.393 §13 (19); 1985 c.420 §6 (19)]

816.230 Fog lights. Each of the following is a requirement for fog lights as described:

(1) Fog lights shall be mounted, aimed and adjusted in accordance with standards adopted by the Department of Transportation.

(2) Fog lights and any part of such fog lights that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.

(3) Forward mounted fog lights shall show a white, amber or yellow light.

(4) Rear mounted fog lights shall show a red light. [1983 c.338 §458 (20); 1985 c.16 §240 (20); 1985 c.69 §1 (20); 1985 c.71 §4 (20); 1985 c.393 §13 (20); 1985 c.420 §6 (20); 2003 c.158 §28]

816.240 Hazard lights. Each of the following is a requirement for hazard lights as described:

(1) At least two hazard lights shall be mounted on the front of the vehicle and at least two hazard lights shall be mounted on the rear of the vehicle.

(2) Hazard lights mounted on the front of the vehicle shall be mounted at the same level as other hazard lights on the front of the vehicle. Hazard lights mounted on the rear of the vehicle shall be mounted at the same level as other hazard lights on the rear of the vehicle.

(3) Hazard lights shall be as widely spaced laterally on the front and rear of the vehicle as practicable.

(4) Hazard lights on a vehicle shall flash simultaneously with each other.

(5) Hazard lights on the front of a vehicle may be white or amber lights. Hazard lights on the rear of a vehicle may be amber or red lights.

(6) Hazard lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night. [1983 c.338 §458 (21); 1985 c.16 §240 (21); 1985 c.69 §1 (21); 1985 c.71 §4 (21); 1985 c.393 §13 (21); 1985 c.420 §6 (21)]

816.250 Police lights. Each of the following is a requirement for police lights as described:

(1) Police lights may be blue, red, yellow, amber or white.

(2) Police lights may be revolving or stationary-type flashing lights.

(3) Police lights shall be visible from a distance of not less than 1,000 feet under normal atmospheric conditions at night.

(4) Police lights may include one or more lights. [1983 c.338 §458 (22); 1985 c.16 §240 (22); 1985 c.69 §1 (22); 1985 c.71 §4 (22); 1985 c.393 §13 (22); 1985 c.420 §6 (22); 1989 c.402 §9; 1997 c.492 §5]

816.260 Bus safety lights. Each of the following is a requirement for bus safety lights:

(1) Bus safety lights shall include at least two of each color of light on the front of the vehicle and at least two of each color of light on the rear of the vehicle.

(2) Bus safety lights shall include red and amber lights.

(3) Each bus safety light shall alternately flash with the bus safety lights of the same color that are placed on the same end of the vehicle displaying the lights. [1983 c.338 §458 (23); 1985 c.16 §240 (23); 1985 c.69 §1 (23); 1985 c.71 §4 (23); 1985 c.393 §13 (23); 1985 c.420 §6 (23)]

816.270 Mail delivery lights. (1) Each of the following is a requirement for mail delivery lights other than strobe lights:

(a) Mail delivery lights shall include two lights.

(b) Mail delivery lights shall be simultaneously flashing lights.

(c) Mail delivery lights may be constructed so that the lights flash continuously or are actuated by application of the service brake.

(d) Mail delivery lights shall have at least 12 square inches of effective illuminated surface.

(e) Mail delivery lights shall be of double face or two-way type.

(f) Mail delivery lights shall project an amber color to the front and a red color to the rear.

(g) Mail delivery lights shall be visible from a distance of not less than 100 feet to the front and rear in normal sunlight.

(h) Mail delivery lights shall be mounted on the highest part of the top of the vehicle in such a position that the illumination from the lights is visible both to the front and rear for the required distance and shall be spaced laterally as far apart as body construction will permit.

(i) Between mail delivery lights there shall be mounted a 22-inch by 7-inch sign with the wording "U.S. Mail" in four-inch letters in black on a white background.

(j) Mail delivery lights and the required sign shall be installed so that the sign can be easily lowered and the lights turned off when the vehicle is not actually engaged in United States Mail service.

(k) Mail delivery lights, the required sign, wiring, switches and mounting devices shall all be of a type that meets standards adopted by the Department of Transportation.

(2) Magnetically attached strobe lights may be used as mail delivery lights without meeting any of the requirements of subsection (1) of this section except the visibility requirements of subsection (1)(g) and (h) of this section. Strobe lights used as mail delivery lights shall be amber. [1983 c.338 §458 (24); 1985 c.16 §240 (24); 1985 c.69 §1 (24); 1985 c.71 §4 (24); 1985 c.393 §13 (24); 1985 c.420 §6 (24); 1991 c.601 §1; 2003 c.158 §29]

816.280 Warning lights. This section establishes standards for different types of warning lights. Each of the following is a requirement for warning lights as described:

(1) The following are the colors for the indicated type of warning light:

(a) Public vehicle warning lights, pilot vehicle warning lights and commercial vehicle warning lights shall be amber.

(b) Tow vehicle warning lights may be amber or red.

(c) Weighmaster and motor carrier enforcement officer warning lights shall be red.

(d) Warning lights on vehicles engaged in the removal, containment or cleanup of a hazardous materials release, and on vehicles at the scene of a potential release of hazardous materials, may be red or amber.

(e) Warning lights on vehicles being used by medical examiners to reach the scene of an accident or of a death investigation may be red.

(2) Warning lights shall provide an intermittent light that may be either of a revolving or flashing type or any other type that provides an intermittent light.

(3) All warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night. [1983 c.338 §458 (25); 1985 c.16 §240 (25); 1985 c.69 §1 (25); 1985 c.71 §4 (25); 1985 c.393 §13 (25); 1985 c.420 §6 (25); 1989 c.402 §10; 1991 c.769 §3; 1993 c.741 §104; 1999 c.497 §1; 2003 c.245 §3]

816.285 Fire department warning lights. Each of the following is authorized for fire department warning lights:

(1) Fire department vehicle warning lights may be red or a combination of red and white.

(2) Fire department vehicles may use an approved headlight flashing system as authorized by ORS 816.050.

(3) Fire department vehicles may have a forward facing flashing white light for the purpose of operating a traffic signal preemption device.

(4) Fire department vehicles may show a flashing or revolving green light when operating as the command post in emergency incidents.

(5) Fire department emergency response vehicle lights may be any color allowed for police lights under ORS 816.250. [1991 c.769 §5; 1997 c.492 §6]

Note: 816.285 was added to and made a part of ORS chapter 816 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

816.290 End load lights. Each of the following is a requirement for end load lights:

(1) The lights shall be red in color.

(2) The lights shall be either a lighted light or lantern.

(3) The lights shall be placed at the extreme rear end of a load.

(4) The lights shall be plainly visible from a distance of at least 500 feet to the sides and rear of the vehicle. [1983 c.338 §458 (26); 1985 c.16 §240 (26); 1985 c.69 §1 (26); 1985 c.71 §4 (26); 1985 c.393 §13 (26); 1985 c.420 §6 (26)]

816.300 Operation with nonstandard lighting equipment; penalty. (1) A person commits the offense of operation with nonstandard lighting equipment if the person does any of the following:

(a) Drives or moves on any highway any vehicle equipped with lighting equipment described under ORS 816.040 to 816.290 that does not meet the standards required for the equipment under ORS 816.040 to 816.290.

(b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway when the vehicle or combination is equipped with lighting equipment described under ORS 816.040 to 816.290 that does not meet the standards required for the equipment under ORS 816.040 to 816.290.

(2) The application of this section is subject to the exemptions from this section established under ORS 816.310.

(3) The offense described in this section, operation with nonstandard lighting equipment, is a Class C traffic violation. [1983 c.338 §457; 1985 c.393 §12]

816.310 Exemptions from lighting equipment requirements. This section establishes exemptions from ORS 816.040 to 816.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions established under this section are partial or complete as described in the following:

(1) ORS 816.040 to 816.300 shall not be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of those sections.

(2) Lighting equipment used on vehicles of special interest that are registered under ORS 805.020 shall be deemed in compliance with ORS 816.040 to 816.300 if the equipment is original manufacturer's equipment and accessories, or their equivalent and if the equipment is maintained in safe operating condition.

(3) ORS 816.040 to 816.300 do not apply to equipment on any of the following:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors.

(d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(e) Motorized wheelchairs when used as permitted under ORS 811.440.

(4) On any combination of vehicles, only the lighting equipment on the rearmost vehicle in the combination of vehicles need be visible from distances specified under ORS 816.040 to 816.290 for lighting equipment on the rear of vehicles.

(5) Lighting equipment on bicycles shall meet the requirements established for such equipment under ORS 815.280.

(6) Vehicle lighting equipment requirements for ambulances and emergency vehicles are established in ORS 820.350.

(7) Lighting equipment on electric personal assistive mobility devices shall meet the requirements established in ORS 815.284. [1983 c.338 §459; 1985 c.16 §241; 1991 c.417 §6; 2003 c.341 §18; 2015 c.138 §36]

REQUIRED LIGHTS

816.320 Lighting equipment required for motor vehicles. This section establishes requirements for ORS 816.330. Where specific types of lighting equipment are mentioned by this section, those types are types described under ORS 816.040 to 816.290. Except where an exemption under ORS 816.340 specifically provides otherwise, a vehicle that does not comply with this section is in violation of ORS 816.330:

(1) A motor vehicle shall be equipped with all of the following in addition to any other requirements under this section:

(a) Headlights. Motor vehicles other than motorcycles or mopeds shall be equipped with at least two. Motorcycles or mopeds shall be equipped with at least one.

(b) Taillights. Motor vehicles other than motorcycles shall be equipped with two taillights. Motorcycles are only required to be equipped with one taillight.

(c) Registration plate light.

(d) Brake lights. Motor vehicles other than motorcycles and mopeds shall be equipped with at least two brake lights. Motorcycles and mopeds are only required to be equipped with one brake light.

(e) Turn signal lights.

(f) Rear reflectors.

(2) All trailers shall be equipped with all of the following in addition to any other requirements under this section:

(a) Taillights. Trailers are required to be equipped with two taillights.

(b) Registration plate lights.

(c) Two brake lights.

(d) Turn signal lights.

(e) Two rear reflectors.

(3) The motor vehicles described in this subsection shall be equipped with forward and rearward side reflectors on each side of the vehicle and forward and rearward side marker lights on each side of the vehicle in addition to any requirements under subsection (1) of this section. This subsection applies to the following vehicles:

(a) School buses.

(b) Worker transport buses.

(c) Vehicles used in transportation of persons for hire by a nonprofit entity.

(d) A bus being operated for transporting children to and from religious services or an activity or function authorized by the religious organization.

(e) Commercial buses.

(f) Motor trucks with a registration weight in excess of 8,000 pounds.

(4) In addition to any other requirements under this section, any motor truck with a registration weight in excess of 8,000 pounds, commercial bus or trailer that is 80 inches or more in overall width and less than 30 feet in overall length shall be equipped with the following:

(a) Two front and two rear clearance lights.

(b) Front and rear identification lights.

(5) In addition to any other requirements under this section, any motor truck with a registration weight of more than 8,000 pounds, commercial bus or trailer that is more than 30 feet in overall length, regardless of its width shall be equipped with the following:

(a) Two front and two rear clearance lights.

(b) Front and rear identification lights.

(c) Intermediate side marker lights and intermediate side reflectors on each side of the vehicle.

(6) Every motor vehicle that has multiple-beam lighting equipment shall be equipped with a high beam indicator.

(7) Tow vehicles shall be equipped with tow vehicle warning lights. [1983 c.338 §461; 1985 c.71 §5; 1989 c.402 §11; 1989 c.992 §22; 2015 c.283 §8]

816.330 Operation without required lighting equipment; penalty. (1) A person commits the offense of operation without required lighting equipment if the person does any of the following:

(a) Drives or moves on any highway any vehicle that is not equipped with lighting equipment that is required for the vehicle under ORS 816.320.

(b) Owns a vehicle or combination of vehicles and causes or knowingly permits the

vehicle or combination of vehicles to be driven or moved on any highway when the vehicle or combination is not equipped with lighting equipment that is required for the vehicle under ORS 816.320.

(2) The application of this section is subject to the exemptions from this section established under ORS 816.340.

(3) The offense described in this section, operation without required lighting equipment, is a Class C traffic violation. [1983 c.338 §460; 1985 c.393 §14]

816.340 Exemptions from required equipment. This section establishes exemptions from ORS 816.320 and 816.330. The exemptions established under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

(1) ORS 816.320 and 816.330 shall not be construed to prohibit the use of additional parts and accessories on any vehicle consistent with the provisions of those sections.

(2) Vehicles of special interest that are registered under ORS 805.020 shall be deemed in compliance with ORS 816.320 and 816.330 if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and if the equipment is maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(3) ORS 816.320 and 816.330 do not apply to any of the following vehicles:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors, implements of husbandry and farm trailers.

(d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) Motorcycles manufactured before 1973 are not required to be equipped with turn signals if the motorcycle is not driven during limited visibility conditions under ORS 811.405 and 811.515.

(5) Truck tractors are not required to be equipped with rear reflectors.

(6) Pole trailers are not required to be equipped with side reflectors, side marker lights, clearance lights or identification lights.

(7) Motor vehicles registered in this state on or before January 1, 1940, are not required to be equipped with a high-beam indicator.

(8) Bicycles shall be equipped with lighting equipment as required under ORS 815.280.

(9) Requirements for warning lights on ambulances are provided under ORS 820.350 and 820.360.

(10) Electric personal assistive mobility devices shall be equipped with lighting equipment as required under ORS 815.284. [1983 c.338 §462; 1985 c.16 §242; 1989 c.402 §12; 1997 c.402 §17; 2003 c.158 §30; 2003 c.341 §19; 2015 c.138 §37]

PROHIBITED LIGHTS

816.350 Prohibitions on number and kind of lights for certain vehicles. This section establishes requirements for ORS 816.360. When specific types of lighting equipment are mentioned by this section, those types are types described under ORS 816.040 to 816.290. Except as allowed under this section or where an exemption under ORS 816.370 specifically provides otherwise, a vehicle that does not comply with this section is in violation of ORS 816.360:

(1)(a) A motorcycle may not be equipped with more than three headlights.

(b) A moped may not be equipped with more than two headlights.

(2) Except when blue or purple inserts are allowed under ORS 816.080, 816.100 or 816.120, no vehicle may have any lighting equipment mounted on the rear that displays or reflects any color other than red except for the following lighting equipment:

(a) Turn signal lights.

(b) Rear mounted lighting systems.

(c) Registration plate lights.

(d) Back-up lights.

(3) Except as otherwise allowed under this section, only the following types of vehicles may be equipped with public vehicle warning lights:

(a) A vehicle operated by the state, or any county, city, district or other political subdivision of the state, and used for the construction, improvement, repair, maintenance, operation or patrol of any public highway.

(b) Vehicles operated by a public utility or telecommunications utility involved in maintenance, repair or construction of their facilities along public rights of way.

(4) Vehicles operated by a police officer and used for law enforcement may be equipped with any type of police lights, but only these vehicles may be equipped with blue lights.

(5) Except as otherwise allowed under this section, only a vehicle operated by a weighmaster or motor carrier enforcement officer proceeding under the authority of ORS 810.530 may be equipped with weighmaster warning lights.

(6) Except as otherwise allowed under this section, only tow vehicles may be equipped with tow vehicle warning lights.

(7) Except as otherwise allowed under this section, only a motor vehicle escort accompanying a motor vehicle carrying or towing a load of a size or description not permitted under ORS 815.160, 815.170, 818.020, 818.060, 818.090, 818.110, 818.160 and 818.300 may be equipped with a pilot vehicle warning light.

(8) Except as otherwise allowed under this section, only the following vehicles may be equipped with bus safety lights:

(a) School buses.

(b) Worker transport buses.

(c) Vehicles issued a permit under ORS 818.260.

(9) No vehicle except a vehicle used in active service transporting United States Mail may be equipped with mail delivery lights.

(10) Except as otherwise allowed under this section, fire company warning lights may only be used on the following vehicles:

(a) An emergency vehicle.

(b) A vehicle authorized under a permit issued under ORS 818.250.

(c) Funeral lead vehicles and funeral escort vehicles used to escort funeral processions.

(11) Except as otherwise allowed under this section, no vehicle or equipment may display or carry any lighting equipment or device with a red light visible from directly in front of the vehicle or equipment.

(12) Except as otherwise allowed under this section, all flashing lights are prohibited on all motor vehicles on any street or highway except for turn signals, hazard lights and headlight flashing systems described in ORS 816.050.

(13) No motor vehicle other than an emergency vehicle may be equipped with more than one spotlight.

(14) No motor vehicle may be equipped with more than two cowl or fender lights.

(15) A vehicle at the scene of an actual or potential release of hazardous materials may be equipped with warning lights as described in ORS 816.280 (1)(d).

(16) A vehicle being used by medical examiners to reach the scene of an accident or of a death investigation may be equipped with warning lights as described in ORS 816.280 (1)(e).

(17) A vehicle may be equipped with covers on any of the following lights if the covers are removed when the lights are required to be in operation:

(a) Headlights under ORS 816.050.

(b) Taillights under ORS 816.080.

(c) Brake lights under ORS 816.100.

(d) Turn signals under ORS 816.120.

(e) Reflectors under ORS 816.180.

(18) A commercial vehicle, as defined in ORS 801.210 (2), may be equipped with commercial vehicle warning lights. [1983 c.338 §464; 1985 c.16 §243; 1985 c.71 §6; 1987 c.447 §140; 1989 c.402 §13; 1991 c.482 §17; 1991 c.769 §2; 1993 c.741 §105; 1997 c.492 §4; 1999 c.497 §3; 2003 c.118 §1; 2003 c.158 §31; 2003 c.245 §4]

816.360 Use of prohibited lighting equipment; penalty. (1) A person commits the offense of use of prohibited lighting equipment if the person does any of the following:

(a) Drives or moves on any highway any vehicle that is equipped with lighting equipment that the vehicle is not allowed under ORS 816.350.

(b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway when the vehicle or combination is equipped with lights that the vehicle or combination is not allowed under ORS 816.350.

(2) The application of this section is subject to the exemptions from this section established under ORS 816.370.

(3) The offense described in this section, use of prohibited lighting equipment, is a Class C traffic violation. [1983 c.338 §463; 1985 c.393 §15]

816.370 Exemptions from lighting equipment prohibitions. This section establishes exemptions from ORS 816.350 and 816.360. The exemptions established under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

(1) ORS 816.350 and 816.360 shall not be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of those sections.

(2) Lighting equipment used on vehicles of special interest that are registered under ORS 805.020 shall be deemed in compliance with ORS 816.350 and 816.360 if the equipment is original manufacturer's equipment and accessories, or their equivalent and if

the equipment is maintained in safe operating condition.

(3) ORS 816.350 and 816.360 do not apply to equipment on any of the following:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors.

(d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) Ambulances and emergency vehicles are subject to the provisions under ORS 820.350 and 820.360. [1983 c.338 §465; 2015 c.138 §38]

CHAPTER 817

[Reserved for expansion]

Chapter 818

2019 EDITION

Vehicle Limits

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WEIGHT

818.010 Maximum allowable weight. This section establishes maximum weight limitations for purposes of ORS 818.020. Except as provided in subsections (4) and (5) of this section or where an exemption under ORS 818.030 specifically provides otherwise, a loaded weight that exceeds the maximum allowable weight as determined by any of the following tables exceeds the maximum weight limitations for purposes of ORS 818.020:

(1) A vehicle exceeds the maximum allowable weight if the loaded weight of an axle or tandem axle is in excess of that determined by the formula in the following table:

Table I

The manufacturer's side wall tire rating (but not to exceed 600 pounds) × the sum of the tire widths, in inches, of the wheels of the axle or tandem axles = maximum allowable weight.

For purposes of the table in this subsection tire width is determined by measuring the cross section of the tread of a wheel, the outer face of a track or the runner of a sled except for the following:

(a) For solid tires made of elastic material, tire width is determined by measuring the cross section between the flanges of the circumference of a wheel at the base of the tire as customarily measured and rated by the manufacturers of motor vehicles and tires.

(b) For pneumatic tires made of elastic material, tire width is the diameter of the cross section of the tire as customarily measured and rated by the manufacturers of motor vehicles and tires.

(2) A vehicle or combination of vehicles exceeds the maximum allowable weight if the loaded weight measured at any of the places designated on the following table exceeds the maximum allowable weight established on the table for measurement at that place:

Table II

Place for measurement of weight	Maximum allowable weight in pounds
Any individual wheel	10,000
Any axle	20,000
Any tandem axles	34,000

(3) A vehicle, group of axles or combination of vehicles exceeds the maximum allowable weight if the loaded weight is in excess of maximum allowable weight as determined by the method in the following table that produces the lower allowable maximum weight:

Table III

(Maximum allowable weight determined by whichever of the following methods produces lower weight:)

Method A

The sum of permissible axle, tandem axles or group of axles weights as determined under Table I or II of this section is the maximum allowable weight.

OR

Method B

Distance in feet between first and last axle in group of axles:	Maximum allowable weight in pounds for number of axles in group of axles:					
	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 or More Axles
4	34,000					
5	34,000					
6	34,000					
7	34,000					
8 and less	34,000	34,000				
More than 8	38,000	42,000				
9	39,000	42,500				
10	40,000	43,500				
11	40,000	44,000				
12	40,000	45,000	50,000			
13	40,000	45,500	50,500			
14	40,000	46,500	51,500			
15	40,000	47,000	52,000			
16	40,000	48,000	52,500	58,000		
17	40,000	48,500	53,500	58,500		
18	40,000	49,500	54,000	59,000		
19	40,000	50,000	54,500	60,000		
20	40,000	51,000	55,500	60,500	66,000	
21	40,000	51,500	56,000	61,000	66,500	
22	40,000	52,500	56,500	61,500	67,000	
23	40,000	53,000	57,500	62,500	68,000	
24	40,000	54,000	58,000	63,000	68,500	74,000
25	40,000	54,500	58,500	63,500	69,000	74,500
26	40,000	55,500	59,500	64,000	69,500	75,000
27	40,000	56,000	60,000	65,000	70,000	75,500
28	40,000	57,000	60,500	65,500	71,000	76,500
29	40,000	57,500	61,500	66,000	71,500	77,000
30	40,000	58,500	62,000	66,500	72,000	77,500
31	40,000	59,000	62,500	67,500	72,500	78,000
32	40,000	60,000	63,500	68,000	73,000	78,500
33	40,000	60,000	64,000	68,500	74,000	79,000
34	40,000	60,000	64,500	69,000	74,500	80,000
35	40,000	60,000	65,500	70,000	75,000	80,000
36	40,000	60,000	66,000	70,500	75,500	80,000
37	40,000	60,000	66,500	71,000	76,000	80,000
38	40,000	60,000	67,500	71,500	77,000	80,000
39	40,000	60,000	68,000	72,500	77,500	80,000
40	40,000	60,000	68,500	73,000	78,000	80,000
41	40,000	60,000	69,500	73,500	78,500	80,000
42	40,000	60,000	70,000	74,000	79,000	80,000
43	40,000	60,000	70,500	75,000	80,000	80,000
44	40,000	60,000	71,500	75,500	80,000	80,000

45	40,000	60,000	72,000	76,000	80,000	80,000
46	40,000	60,000	72,500	76,500	80,000	80,000
47	40,000	60,000	73,500	77,500	80,000	80,000
48	40,000	60,000	74,000	78,000	80,000	80,000
49	40,000	60,000	74,500	78,500	80,000	80,000
50	40,000	60,000	75,500	79,000	80,000	80,000
51	40,000	60,000	76,000	80,000	80,000	80,000
52	40,000	60,000	76,500	80,000	80,000	80,000
53	40,000	60,000	77,500	80,000	80,000	80,000
54	40,000	60,000	78,000	80,000	80,000	80,000
55	40,000	60,000	78,500	80,000	80,000	80,000
56	40,000	60,000	79,500	80,000	80,000	80,000
57 or over	40,000	60,000	80,000	80,000	80,000	80,000

For the purpose of the table in this subsection, the distance between axles shall be measured to the nearest foot. When a fractional measurement is exactly one-half foot the next larger whole number shall be used.

(4) Notwithstanding any other provision of this section, a vehicle with farm vehicle registration issued under ORS 805.300 or with out-of-state farm vehicle registration exceeds the maximum allowable weight if the loaded weight of the vehicle or combination of vehicles exceeds the amount shown in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles:	Maximum allowable weight in pounds for number of axles in group of axles:			
	2 Axles	3 Axles	4 Axles	5 or More Axles
4	37,800			
5	37,800			
6	37,800			
7	37,800			
8	37,800	42,000		
9	37,800	42,400		
10	37,800	43,500		
11		44,000		
12		45,000	50,000	
13		56,470	56,470	56,470
14		57,940	57,940	57,940
15		59,400	59,400	59,400
16		60,610	60,610	60,610
17		61,820	61,820	61,820
18		63,140	63,140	63,140
19		64,530	64,530	64,530
20		65,450	65,450	65,450
21		66,000	66,000	66,330
22		66,000	66,000	67,250
23		66,000	66,000	67,880
24		66,000	66,000	68,510
25		66,000	66,000	69,150
26		66,000	66,000	69,770
27		66,000	66,000	70,400
28		66,000	66,000	70,950
29		66,000	66,000	71,500
30				72,050
31				72,600
32				73,150
33				73,700
34				74,250
35				74,800
36				75,350
37				75,900
38				76,450
39				77,000
40				77,550
41				78,100
42				78,650
43 and over				80,000

Weights authorized under this subsection are authorized only if the vehicle is transporting field-loaded agricultural products in Malheur County. Weights authorized under this subsection are not authorized for vehicles traveling on Interstate 84 or U.S. Highway 95. A vehicle otherwise described in this subsection that is operating at a weight not listed in this subsection must comply with subsection (1) of this section.

(5) Notwithstanding any other provision of this section, the maximum wheel load for the front axle of the power unit on a vehicle used for curbside solid waste or recycling collection that has tires that are at least 12-1/2 inches wide shall be the load limit established by the tire manufacturer, as molded on at least one sidewall of the tire, up to a maximum of 10,000 pounds, as long as the tire is approved by the Department of Transportation pursuant to ORS 818.012. [1983 c.338 §508; 1985 c.16 §264; 1985 c.172 §6a; 1987 c.66 §1; 1995 c.489 §1; 1999 c.725 §1; 2001 c.335 §1; 2001 c.665 §1]

818.012 Wheel load on certain vehicles; rules. The Department of Transportation may adopt rules approving tires for the use described in ORS 818.010 (5). In adopting the rules, the department shall consider the potential damage to highways caused by use of the tires and may reject a tire that otherwise meets the criteria of ORS 818.010 (5) if the department finds that the use of the tire would cause excessive damage to highways. [2001 c.665 §3]

818.020 Violating maximum weight limits; civil liability; penalties. (1) A person commits the offense of violating maximum weight limits if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that exceed the weight limits established under ORS 818.010.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles exceeds the weight limits established under ORS 818.010. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle

or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.030.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, violating maximum weight limits, is:

(a) A Class A traffic violation if, at the time of the offense, an enforcement officer determines the vehicle was eligible for a variance permit under ORS 818.200; and

(b) In circumstances not described in paragraph (a) of this subsection, punishable by penalties established in Schedule I of the schedules of penalties under ORS 818.430. [1983 c.338 §507; 2007 c.380 §1]

818.030 Exemptions from weight limitations. This section establishes exemptions from the maximum weight limitations under ORS 818.010 and 818.020. The exemptions under this section are in addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to the penalties in ORS 818.020. Exemptions are partial or complete as described in the following:

(1) The maximum weight limitations do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547 and 551 or a corporation formed under ORS chapter 554.

(2) The maximum weight limitations do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency, or both.

(3) The maximum weight limitations do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.

(4) The maximum weight limitations do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the weight of the vehicles is approved by the road authority for the roads.

(5) Subject to the maximum weight limitations under Tables I and III of ORS 818.010, any vehicle with a single rear axle specially equipped with a self-compactor and used exclusively for garbage or refuse operations may have a loaded weight upon a single axle of not more than 22,000 pounds when laden with garbage or refuse. When unladen or when operating on any highway that is part of the federal interstate highway system such vehicles shall comply with the weight limitations under Table II of ORS 818.010.

(6) Weight limitations are not applicable in any place and to the extent the weight limitations are modified by a road authority under ORS 810.060. The exemption under this subsection is subject to the limitations imposed by the road authority exercising the powers granted under ORS 810.060.

(7) Operations authorized to exceed weight limitations by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.020 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.

(8)(a) Notwithstanding Table III of ORS 818.010, two consecutive sets of tandem axles may have a loaded weight of 34,000 pounds each when operating on interstate highways with a permit and on other highways without a permit, providing the distance between the first and last axles of the two sets of tandem axles is at least 30 feet but less than 36 feet.

(b) Notwithstanding Table III of ORS 818.010, two consecutive sets of tandem axles may have a loaded weight of 34,000 pounds each when operating on any highway if the overall distance between the first and the last axles of the sets of tandem axles is 36 feet or more.

(9) Notwithstanding Table III of ORS 818.010, a group of four axles consisting of a set of tandem axles and two axles spaced nine feet or more apart may have a loaded weight of more than 65,500 pounds and up to 70,000 pounds when operating on interstate highways with a permit and on other highways without a permit, providing the distance between the first and last axles of the group is 35 feet or more.

(10) The maximum weight limitations do not apply to a vehicle equipped with a fully functional idle reduction system designed to reduce fuel use and emissions from engine idling. The vehicle may exceed the weight limitations established under ORS 818.010 by not more than 550 pounds.

(11) The maximum weight limitations do not apply to a vehicle that uses natural gas

as its fuel source or a vehicle powered primarily by means of an electric battery. The vehicle may exceed the weight limitations established under ORS 818.010 by not more than 2,000 pounds. [1983 c.338 §509; 1985 c.172 §7; 1989 c.723 §19; 1995 c.489 §2; 2007 c.92 §1; 2017 c.156 §1; 2019 c.331 §1]

818.040 Violation of posted weight limits; civil liability; penalty. (1) A person commits the offense of violation of posted weight limits if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that exceed any weight limits imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination exceeds any weight limits imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (5) of this section as a result of the operation.

(2) The authority to establish and change weight limits for purposes of the prohibitions and penalties under this section is under ORS 810.030.

(3) The application of this section is subject to the exemptions from this section established under ORS 818.050.

(4) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(5) The offense described in this section, violation of posted weight limits, is punishable as provided under Schedule III of the penalties under ORS 818.430. The penalties under this subsection are in addition to any suspension of driving privileges under ORS 809.120 or any suspension of vehicle registration under ORS 809.120. [1983 c.338 §510]

818.050 Exemptions from posted weight limits. This section establishes exemptions from the posted weight limits under ORS 818.040. The exemptions under this section are in addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.040. Exemptions are partial or complete as described in the following:

(1) Posted weight limits do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) Posted weight limits do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(3) Posted weight limits do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.

(4) Posted weight limits do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the weight of the vehicles is approved by the road authority for that road.

(5) Operations authorized to exceed weight limits by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.040 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense. [1983 c.338 §511]

WEIGHT AND SIZE

818.060 Violation of administratively imposed weight or size limits; civil liability; penalties. (1) A person commits the offense of violation of administratively imposed weight or size limits if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that exceeds weight or size limits imposed under ORS 810.050 or 810.060.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles exceeds weight or size limits imposed under ORS 810.050 or 810.060. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.070.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, violation of administratively imposed weight or size limits, is subject to penalty as follows:

(a) Violation of any size limit is subject to penalty under the schedule of penalties in ORS 818.420.

(b) Violation of any weight limit is subject to penalty under Schedule I of the penalties in ORS 818.430. [1983 c.338 §512; 1987 c.158 §172]

818.070 Exemptions from administratively imposed weight or size limitations. This section establishes exemptions from ORS 818.060. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exempt, partially or completely as described, are the following:

(1) Any vehicle on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547 and 551 or a corporation formed under ORS chapter 554.

(2) A vehicle on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency, or both.

(3) Any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.

(4) Vehicles while being used on the roads of a road authority by a mass transit district for the purposes authorized under ORS 267.010 to 267.394, provided the weight or size is approved by the road authority for its roads.

(5) Operations authorized to exceed weight or size limitations by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.060 if the person so charged produces a variance permit issued under ORS 818.200 that authorized the operation and that was issued prior to and valid at the time of the offense. [1983 c.338 §513]

SIZE

818.080 Maximum size limits. This section establishes maximum size limits for purposes of ORS 818.090. Except where an exemption under ORS 818.100 specifically provides otherwise, any vehicle or load thereon that exceeds a maximum allowable size as determined by any of the following tables exceeds the maximum size limits for purposes of ORS 818.090:

(1) A vehicle or combination of vehicles, as appropriate, exceeds the maximum allowable size if a dimension of the vehicle, combination of vehicles or load thereon is beyond an applicable maximum size allowable on the following table:

TABLE I

Dimension limited:	Limit applicable to:	Maximum allowable size, in feet, for dimension limited:
(1) Total outside width	Any vehicle	8½
(2) Height, including load	Any vehicle	14
(3) Length	Any vehicle operating singly	40
	Vehicle in combination of vehicles	40
	Combination of vehicles, including load	60
	Combination of vehicles that includes a stinger-steered pole trailer	65
(4) Length of load on vehicle	Any vehicle operating singly or as a unit in a combination of vehicles	40

The maximum limit on height under the table in this subsection does not relieve the owner or driver of any vehicle or combination of vehicles from the exercise of due care in determining that sufficient vertical clearance is provided upon the highways and streets where the vehicle or combination of vehicles is being operated.

(2) A vehicle or combination of vehicles, as appropriate, exceeds the maximum allowable size if a portion of the vehicle, combination of vehicles or load thereon is subject to a limitation under the following table and that portion extends farther than the maximum limit of allowable extension beyond a

designated point as determined by the following table:

TABLE II

Designated point:	Limit applicable to:	Maximum limit of allowable extension beyond designated point:
(1) Line of left fenders of vehicle	Load on any passenger vehicle	No allowable extension beyond designated point.
(2) Line of right fenders of vehicle	Load on any passenger vehicle	6 inches
(3) Front of vehicle	Load on any vehicle or combination of vehicles	4 feet
(4) Last axle of vehicle operating singly	Any portion of vehicle or any load thereon	Three-fourths the length of the wheelbase of the vehicle.
(5) Last axle of combination of vehicles	Any portion of combination of vehicles or any load thereon	One-third of the length of the wheelbase of the combination of vehicles.

[1983 c.338 §515; 1985 c.16 §265; 1995 c.488 §2; 2001 c.574 §3]

818.090 Violation of maximum size limits; civil liability; penalties. (1) A person commits the offense of violation of maximum size limits if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that exceeds the size limits established under ORS 818.080.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles exceeds the size limits established under ORS 818.080. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.100.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, violation of maximum size limits, is punishable according to the schedule of penalties established in ORS 818.420. [1983 c.338 §514]

818.100 Exemptions from size limitations. This section establishes exemptions from the maximum size limitations under ORS 818.080 and 818.090. The exemptions under this section are in addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.090. Exemptions are partial or complete as described in the following:

(1) The maximum size limits do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) The maximum size limits do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(3) The maximum size limits do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.

(4) The maximum size limits do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the size of the vehicles is approved by the road authority for the roads.

(5) Size limits are not applicable in any place and to the extent size limits are modi-

fied by a road authority under ORS 810.060. The exemption under this subsection is subject to the limitations imposed by the road authority exercising the powers granted under ORS 810.060.

(6) Operations authorized to exceed size limits by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.090 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.

(7) Pneumatic tires made of elastic material, flexible mud flaps, flexible fenders, safety accessories such as clearance lights, rub rails and binder chains, and appurtenances such as door handles, door hinges and turning signal brackets may exceed the maximum allowable width described in Table I of ORS 818.080 by a distance not greater than two inches on each side of the vehicle.

(8) Rearview mirrors may exceed the maximum allowable width described in Table I of ORS 818.080.

(9) Notwithstanding the maximum allowable length of vehicles and loads on vehicles under Table I of ORS 818.080, public utilities, telecommunications utilities, people's utilities districts, municipalities and electric cooperatives, or common or contract carriers when acting as an agent for or on direct orders of a public utility, telecommunications utility, people's utility district, municipality or electric cooperative, for the purpose of transporting and hauling poles, piling or structures used or to be used in connection with their operations, may use and operate upon any highway of this state any combination of vehicles having an overall length, including load, that does not exceed 80 feet, except that the overall length may exceed 80 feet if an emergency exists. For purposes of this subsection, an unplanned disruption in the services provided by a public utility, telecommunications utility, people's utility district, municipality or electric cooperative occurring outside the normal business hours of the road authority or authorized private contractor from which the public utility, telecommunications utility, people's utility district, municipality or electric cooperative would acquire a variance permit is an emergency.

(10) The load on a semitrailer may exceed the maximum length established under ORS 818.080 providing the load does not:

(a) Extend beyond the rear of the semitrailer by more than five feet;

(b) Extend forward of the rear of the cab of the towing vehicle; or

(c) Exceed an overall length permitted by a rule, resolution or ordinance adopted under ORS 810.060.

(11) The load upon a truck tractor and pole trailer may exceed the maximum length established under ORS 818.080 if the overall length does not exceed that authorized by a rule, resolution or ordinance adopted under ORS 810.060.

(12) None of the size limits described under ORS 818.080 except the maximum limit of allowable extension beyond the last axle of a combination of vehicles under Table II apply to implements of husbandry hauled, towed or moved upon any highway not a part of the Federal Interstate Highway System if the movement is incidental to a farming operation and the owner of the implement of husbandry is engaged in farming or if the owner is hired by or under contract to a farmer to perform agricultural activities.

(13) The rear overhang of a combination of vehicles described in this subsection may extend more than one-third but not more than one-half the length of the wheelbase of the combination of vehicles. This subsection is applicable to any combination of vehicles consisting of a motor vehicle towing any of the following:

(a) A travel trailer.

(b) Any trailer designed to carry a single nonmotorized aircraft.

(14) The rear overhang of a combination consisting of a motor vehicle towing a manufactured structure may exceed one-third, but may not exceed one-half, the length of the wheelbase of the combined vehicle and structure.

(15) A recreational vehicle may exceed the maximum width established under ORS 818.080 if the excess width is attributable to an appurtenance that does not extend beyond the body of the vehicle by more than four inches, or if a passenger-side awning, by more than six inches. As used in this subsection, "appurtenance" means an appendage that is installed by a factory or a vehicle dealer and is intended as an integral part of the recreational vehicle. "Appurtenance" does not include an item temporarily affixed or attached to the exterior of a vehicle for the purpose of transporting the item from one location to another. "Appurtenance" does not include an item that obstructs the driver's rearward vision.

(16)(a) A recreational vehicle may exceed the maximum length established under ORS 818.080 if the vehicle is not more than 45 feet long.

(b) A combination that includes a recreational vehicle that is not more than 45 feet long, when operating on Group 1 or Group 2 highways as designated by the Department of Transportation, may exceed the maximum length for vehicles in a combination established under ORS 818.080 if the combination is not more than 65 feet long.

(17) A motor vehicle transporter may exceed the maximum lengths established in ORS 818.080 for a single vehicle, a vehicle in a combination of vehicles and a load if the length of the single vehicle, vehicle in a combination or load does not exceed 45 feet.

(18) A motor vehicle transporter towing another vehicle, when operating on a Group 1 or Group 2 highway as designated by the department, may exceed the maximum length established in ORS 818.080 for a combination of vehicles if the overall length does not exceed 65 feet.

(19) A school bus or school activity vehicle may exceed the maximum length established under ORS 818.080 if the vehicle is not more than 45 feet long. [1983 c.338 §516; 1985 c.16 §266; 1985 c.172 §8; 1987 c.447 §141; 1989 c.662 §1; 1991 c.754 §1; 1993 c.416 §2; 1993 c.662 §1; 1993 c.696 §9; 1995 c.79 §376; 1995 c.140 §1; 1995 c.488 §3; 1997 c.405 §1; 1999 c.496 §1; 2001 c.172 §4; 2001 c.335 §2a; 2003 c.655 §121; 2009 c.31 §1; 2013 c.483 §1; 2017 c.265 §1]

818.105 Request for unrestricted access to specified highway for overlength combination; mandated responses to request. (1) Any person who transports property, or causes property to be transported, by motor vehicle may request that a road authority, other than a city, authorize unrestricted access by truck tractor and semitrailer combinations in lengths in excess of that authorized under ORS 818.080 on a specific highway within the jurisdiction of the road authority.

(2) Within 60 days following receipt of a request, the road authority shall do one of the following:

(a) Grant the request and adopt a rule, resolution or ordinance as provided in ORS 810.060.

(b) Complete an evaluation of the request to determine whether the highway can safely accommodate the proposed operation. The evaluation shall consist of a test run as described in subsection (3) of this section and an examination of information about the highway as described in subsection (4) of this section.

(c) Produce a previous evaluation and determination that applies to the proposed operation.

(3) The following apply to a test run undertaken as part of an evaluation under subsection (2)(b) of this section:

(a) The party requesting the change in access shall provide a truck tractor and semitrailer combination for the test run. The combination must be equal to or greater in length than the truck tractor and semitrailer combinations for which access is requested.

(b) The road authority shall issue a single trip variance permit for the test run.

(c) During the test run, road authority staff shall precede and follow the test run combination to observe vehicle operability and to gather data to be used by the road authority to determine:

(A) Whether the test run combination maintained its lane of travel; and

(B) Whether the test run combination maintained appropriate speed, or there was adequate sight distance for trailing vehicles to pass the combination, or there was enough room for the combination to pull off the roadway to allow trailing vehicles to pass.

(4) In conducting an evaluation under subsection (2)(b) of this section, the road authority shall examine the following information about the highway:

(a) Average daily traffic flow;

(b) Accident rate;

(c) Pavement and shoulder conditions; and

(d) Any information the road authority has regarding proposed improvements or any peculiarities associated with the highway.

(5) All information gathered under subsections (3) and (4) of this section shall be analyzed by the road authority to determine whether the highway can safely accommodate the requested truck tractor and semitrailer length.

(6) The road authority shall give written notification to the person requesting access to the highway of the results of any evaluation done under subsection (2)(b) or (9) of this section.

(7) When an evaluation under subsection (2)(b) of this section results in a determination that the highway can safely accommodate the requested truck tractor and semitrailer length only if conditions are imposed on the operation, the road authority may require that any truck tractor and semitrailer combination of that length operate under a variance permit issued under ORS 818.200 that states the conditions of operation.

(8) When an evaluation under subsection (2)(b) of this section results in a determination that the highway cannot safely accommodate the requested truck tractor and semitrailer length, the requesting person may ask for further evaluation.

(9) When a person requests further evaluation under subsection (8) of this section, the road authority shall conduct a detailed investigation of the proposed operation that may include:

(a) A more detailed analysis of average daily traffic flow, including traffic peak hours and volumes;

(b) Analysis of roadway and shoulder width;

(c) Review of test run data, including any photographs or videotape;

(d) Truck volume compared to total traffic volume;

(e) Overlength truck volume compared to total traffic volume;

(f) Stopping sight distance for legal speed;

(g) Cost of spot improvements and facility improvements;

(h) Accident history for the highway or similar highways; and

(i) Potential risk of collisions between two trucks or a truck and an automobile.

(10) When an evaluation under subsection (9) of this section results in a determination that the highway can safely accommodate the requested truck tractor and semitrailer length only if conditions are imposed on the operation, the road authority may require that any truck tractor and semitrailer combination of that length operate under a variance permit issued under ORS 818.200 that states the conditions of operation.

(11) When an evaluation under subsection (9) of this section results in a determination that the highway cannot safely accommodate the requested truck tractor and semitrailer length, no further evaluation may be conducted unless improvements are made to the highway and a subsequent request is made. [2003 c.185 §2]

Note: 818.105 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 818 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

VEHICLE COMBINATIONS

818.110 Exceeding maximum number of vehicles in combination; civil liability; penalty. (1) A person commits the offense of exceeding the maximum number of vehicles in combination if the person does any of the following:

(a) Drives or moves on a highway any combination of vehicles that consists of more than two vehicles.

(b) Owns any vehicle and causes or permits the vehicle to be driven or moved on a highway when the vehicle is in a combination of vehicles that consists of more than two vehicles. Operation of any combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicles in the combination caused or permitted the combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.120.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, exceeding maximum number of vehicles in combination, is a Class D traffic violation. [1983 c.338 §517; 1985 c.393 §28; 1995 c.383 §93]

818.120 Exemptions from limits on number of vehicles in combinations. This section establishes exemptions from ORS 818.110. The exemptions under this section are in addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.110. Exemptions are partial or complete as described in the following:

(1) The limit on the number of vehicles that may be operated in combination does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) The limit on the number of vehicles that may be operated in combination does not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(3) The limit on the number of vehicles that may be operated in combination does not apply to any vehicles, combination of vehicles, articles, machines or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.

(4) The limit on the number of vehicles that may be operated in combination does not apply to any vehicles while being used on the roads of a road authority by mass transit districts for purposes authorized under ORS 267.010 to 267.394, provided the use of the vehicles is approved by the road authority for its roads.

(5) Operations authorized to exceed the limit on the number of vehicles that may be operated in combination by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.110 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the combination of vehicles issued prior to and valid at the time of the offense.

(6) In drive-away operations, three vehicles may be coupled together by a double saddle-mount method or by a single saddle-mount and tow bar method or four vehicles by a triple saddle-mount method.

(7) A combination of three implements of husbandry or two implements of husbandry hauled or towed by another vehicle may be operated on a highway without violation of the limits under ORS 818.110.

(8) A truck tractor and semitrailer drawing one trailer or a truck tractor and semitrailer drawing one additional semitrailer mounted on a dolly equipped with a fifth wheel hitch may be operated on a highway without violation of the limits under ORS 818.110.

(9) A truck tractor and semitrailer drawing a balance trailer with a length not in excess of 15 feet and a loaded weight not in excess of 8,000 pounds or drawing a dolly may be operated on a highway without violation of the limits under ORS 818.110. [1983 c.338 §518; 1985 c.16 §267; 1993 c.277 §1; 2007 c.456 §1]

POSTED USE LIMITS

818.130 Violation of posted limits on use; civil liability; penalty. (1) A person commits the offense of violation of posted limits on use of a road if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that exceeds any use limits, other than weight limits, imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination exceeds any use limits, other than weight limits, imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (5) of this section as a result of the operation.

(2) The authority to establish and change use limits for purposes of the prohibitions and penalties under this section is under ORS 810.030.

(3) The application of this section is subject to the exemptions from this section established under ORS 818.140.

(4) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(5) The offense described in this section, violation of posted limits of use of a road, is a Class D traffic violation. [1983 c.338 §519; 1985 c.16 §268; 1985 c.393 §29; 1995 c.383 §94]

818.140 Exemptions from posted use limits. This section establishes exemptions from ORS 818.130. The exemptions under this section are in addition to any under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.130. Exemptions are partial or complete as described in the following:

(1) Posted use limits do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) Posted use limits do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(3) Posted use limits do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.

(4) Posted use limits do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the use of the vehicles is approved by the road authority for that road.

(5) Operations authorized by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.130 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense. [1983 c.338 §520]

TOWING SAFETY

818.150 Safety requirements for towing. This section establishes safety requirements for towing for purposes of ORS 818.160. Except where an exemption under ORS 818.170 specifically provides otherwise, the safety requirements for towing are violated for purposes of ORS 818.160 if any of the following are violated:

(1) If one vehicle is towing another, the tow bar, coupling device and other connections must be of sufficient strength to hold the weight of the towed vehicle upon any grade of highway where operated.

(2) If one vehicle is towing another, the connections of the tow bar, coupling device and other connections must be properly mounted without excessive slack but with sufficient play to allow for universal action of the connections and provided with a suitable locking means to prevent accidental separation of the towed and towing vehicles.

(3) If any vehicle is towing another vehicle and the connection between the vehicle is a chain, rope, cable or any flexible material, a red flag or cloth not less than 12 inches square must be displayed upon the connection.

(4) Any vehicle being towed must not whip or swerve from side to side dangerously or unreasonably or fail to follow substantially in the path of the towing vehicle.

(5) Any towed vehicle in a combination of vehicles must be equipped with one or more safety chains or cables that meet all of the following requirements:

(a) The chains or cables must be so connected to the towed and towing vehicle and to the tow bar as to prevent the tow bar from dropping to the ground in the event the tow bar or coupling device fails.

(b) The chains or cables must have a tensile strength equivalent to the loaded weight of the towed vehicle and a means of attachment to the towed and towing vehicle of sufficient strength to control the towed vehicle in event the tow bar or coupling device fails.

(c) The chains or cables must be attached with no more slack than is necessary to permit proper turning.

(6) Any coupling device on any towing vehicle used as a connection for the tow bar on any towed vehicle having a loaded weight in excess of 5,000 pounds shall be firmly attached to the frame or to a solid connection to the frame and not only to the bumper of the towing vehicle.

(7) Vehicle connecting devices for any vehicle with a loaded weight of not more than 10,000 pounds must be constructed or equipped as required under minimum standards adopted by the Department of Transportation for purposes of this subsection. Standards adopted for purposes of this subsection shall conform to the current standards of the Society of Automotive Engineers or other widely accepted standards that are applicable. [1983 c.338 §522; 1985 c.16 §269; 1985 c.20 §1]

818.160 Violating towing safety requirements; civil liability; penalty. (1) A person commits the offense of violating towing safety requirements if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that are in violation of the safety requirements for towing vehicles established under ORS 818.150.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles is in violation of the safety requirements for towing vehicles established under ORS 818.150. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.170.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, violation of towing safety requirements, is a Class B traffic violation. [1983 c.338 §521; 1985 c.393 §30]

818.170 Exemptions from towing safety requirements. This section establishes exemptions from the towing safety requirements under ORS 818.150 and 818.160. Exemptions under this section are in addition to any under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.160. Exemptions are partial or complete as described in the following:

(1) The requirements for mounting and slack of towing connections under ORS 818.150 (2) do not apply where the towed vehicle is temporarily disabled.

(2) The requirements for safety chains or cables under ORS 818.150 (5) do not apply to the following:

(a) A temporarily disabled vehicle that is being towed by another vehicle.

(b) A dolly without a tow bar.

(c) A semitrailer coupled to a towing vehicle with a fifth wheel hitch or any ball and socket type assembly that is positioned above and forward of the rear axle of the towing vehicle. To qualify for the exemption under this subsection, the assembly must be designed so that the upper and lower halves of the assembly may not be separated without being manually released.

(d) A booster axle bolted or pinned to another vehicle that redistributes weight from one or more axles and pivots from side to side at the connection point or has wheels that steer during turning.

(3) Operations exempt from the towing safety requirements by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.160 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.

(4) The towing safety requirements do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(5) The towing safety requirements do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both. [1983 c.338 §523; 1999 c.361 §2]

PERMITS

818.200 Authority to issue variance permits; effect of permit; violation of permit. (1) A road authority, or a private contractor authorized by a road authority to do so, may issue a variance permit if it determines the public interests will be served. A variance permit issued under this section may allow any vehicle, combination of vehicles, load article, property, machine or thing to move over any highway or street under the jurisdiction of the road authority without violation of any of the following:

(a) Maximum weight limits under ORS 818.020.

(b) Posted weight limits under ORS 818.040.

(c) Administratively imposed weight or size limits under ORS 818.060.

(d) Maximum size limits under ORS 818.090.

(e) Maximum number of vehicles in combination under ORS 818.110.

(f) Posted limits on use of road under ORS 818.130.

(g) Towing safety requirements under ORS 818.160.

(h) Use of devices without wheels under ORS 815.155.

(i) Use of metal objects on tires under ORS 815.160.

(j) Operation without pneumatic tires under ORS 815.170.

(k) Misuse of a special left turn lane under ORS 811.346.

(L) Improper use of the center lane on three-lane road under ORS 811.380.

(m) Operation of a motor vehicle on a bicycle trail under ORS 811.435.

(n) Failure to drive within a lane under ORS 811.370.

(2) The fee for issuance of a variance permit under this section is the fee established under ORS 818.270. No fee shall be charged for issuance of a permit to the federal government, agencies of the State of Oregon, cities or counties.

(3) A permit issued under this section is subject to all of the provisions under ORS 818.220 and to any limits under ORS 818.210.

(4) Prohibitions and penalties relating to the use of the permit are provided under ORS 818.340 and 818.350.

(5) Violation of the conditions of the permit is subject to civil penalties as provided under ORS 818.410. [1983 c.338 §535; 1995 c.123 §1; 2010 c.30 §11]

818.205 Continuous operation variance permit; standards; relationship to permit issued under ORS 818.200; fee. (1) The Department of Transportation, in consultation with other road authorities, shall develop and implement a system of issuing continuous operation variance permits. The system shall allow a person to obtain one permit that is valid for every road authority in whose jurisdiction the person will travel.

(2) The department, in consultation with other road authorities, shall develop standards for terms and conditions of continuous operation variance permits. The standards shall be applicable throughout the state and shall honor size and weight restrictions established by any road authority for highways and structures under its jurisdiction.

(3) If requested to do so by another road authority, the department shall contract with that road authority to allow the authority to

distribute permits described in this section. The department may contract with private contractors to distribute permits described in this section.

(4) Notwithstanding any other provision of law, a road authority other than the department may not issue a continuous operation variance permit for its roads unless the road authority participates in the system developed under subsection (1) of this section.

(5) For purposes of provisions of Oregon Revised Statutes referring to permits issued under ORS 818.200, a permit issued under this section shall be considered a permit issued under ORS 818.200, unless to so consider the permit contradicts a specific provision of this section.

(6) The fee for a permit issued under this section that is valid for travel in more than one road authority jurisdiction shall be an amount determined by the department by rule, not to exceed $8, plus an additional amount to be determined by the department by rule, not to exceed $8, for each jurisdiction in which travel is authorized by the permit. [1999 c.772 §2]

818.210 Limits on authority to issue variance permit. Except as provided under ORS 818.220, a road authority shall not issue a variance permit under ORS 818.200 for any vehicle or load that can readily or reasonably be dismantled or disassembled. The limit under this section does not apply to the following:

(1) Combinations of vehicles consisting of not more than a motor truck with a registration weight of more than 8,000 pounds and two self-supporting trailers or a truck tractor and semitrailer drawing two self-supporting trailers or semitrailers mounted on dollies equipped with fifth wheels having an overall length not in excess of 105 feet. The self-supporting trailers or semitrailers must be reasonably uniform in length.

(2) Vehicles or combinations of vehicles having a length in excess of that permitted under ORS 818.060 or 818.090.

(3) Any self-loading log truck. In the granting of permits to vehicles described in this subsection, a granting authority shall observe and be governed by the following maximum loaded weights:

(a) The loaded weight of any individual wheel, axle or tandem axles of any vehicle or combination of vehicles shall not exceed the maximum loaded wheel, axle and tandem axle weights set forth in Tables I and II of ORS 818.010.

(b) The loaded weight of any group of axles of any vehicle or combination of vehicles, when the distance between the first and last axles of any group of axles is 18 feet or less, and the loaded weight of any vehicle when the distance between the first and last axles of all of the axles of the vehicle is 18 feet or less, shall not exceed that set forth in the following table of weights, or the sum of the permissible axle or tandem axle weights, whichever is less:

Distance in feet between the first and last axles of any group of axles of any vehicle or combination of vehicles, or between the first and last axles of all the axles of any vehicle:	Maximum loaded weight, in pounds, of any group of axles of any vehicle or combination of vehicles, or of any vehicle:
6	34,000
7	34,000
8	34,000
9	39,000
10	40,000
11	40,000
12	40,000
13	40,000
14	43,200
15	44,000
16	44,800
17	45,600
18	50,000

(c) The loaded weight of any vehicle or combination of vehicles, where the distance between the first and last axles of the vehicle or combination of vehicles is more than 18 feet, shall not exceed that set forth in the following table of weights, or the sum of the permissible axle, tandem axle or group of axles weights, whichever is less:

Distance in feet between the first and last axles of all the axles of a vehicle or combination of vehicles:	Maximum loaded weight, in pounds, of any vehicle or combination of vehicles:				
Wheel Base	Max Weight	5 Axles	6 Axles	7 Axles	8 or More Axles
19	50,000				
20	50,000				
21	50,000				
22	50,000				
23	50,400				
24	51,200				
25	55,250				
26	56,100				
27	56,950				
28	57,800				
29	58,650				
30	59,500				
31	60,350				
32	61,200				
33	62,050				
34	62,900				
35	63,750				
36	64,600				
37	65,450				

38	66,300				
39	68,000				
40	70,000	73,000			
41	72,000	73,500			
42	73,280	74,500			
43	73,280	75,000			
44	73,280	75,500			
45	73,280	76,000			
46	73,280	77,000			
47	73,280	77,500	81,000	81,000	81,000
48	73,280	78,000	82,000	82,000	82,000
49	73,280	78,500	83,000	83,000	83,000
50	73,280	79,500	84,000	84,000	84,000
51	73,280	80,000	84,500	85,000	85,000
52	73,600	80,500	85,000	86,000	86,000
53	74,400	81,000	86,000	87,000	87,000
54	75,200	81,500	86,500	88,000	91,000
55	76,000	82,500	87,000	89,000	92,000
56	-	83,000	87,500	90,000	93,000
57	-	83,500	88,000	91,000	94,000
58	-	84,000	89,000	92,000	95,000
59	-	85,000	89,500	93,000	96,000
60	-	85,500	90,000	94,000	97,000
61	-	86,000	90,500	95,000	98,000
62	-	87,000	91,000	96,000	99,000
63	-	87,500	92,000	97,000	100,000
64	-	88,000	92,500	97,500	101,000
65	-	88,500	93,000	98,000	102,000
66	-	89,000	93,500	98,500	103,000
67	-	90,000	94,000	99,000	104,000
68	-	90,000	95,000	99,500	105,000
69	-	90,000	95,500	100,000	105,500
70	-	90,000	96,000	101,000	105,500
71	-	90,000	96,500	101,500	105,500
72	-	90,000	96,500	102,000	105,500
73	-	90,000	96,500	102,500	105,500
74	-	90,000	96,500	103,000	105,500
75	-	90,000	96,500	104,000	105,500
76	-	90,000	96,500	104,500	105,500
77	-	90,000	96,500	105,000	105,500
78	-	90,000	96,500	105,500	105,500

(4) Any vehicle, combination of vehicles, load, article, property, machine or thing that:

(a) Is used in the construction, maintenance or repair of public highways; and

(b) Is either not being used by the federal government, State of Oregon or any county or incorporated city or not being used at the immediate location or site.

(5) Combinations of vehicles having a combined loaded weight in excess of that authorized under Table III of ORS 818.010.

(6) A vehicle engaged in the transportation of secondary wood products, which may be issued a permit for an overlength load. As used in this subsection, "secondary wood products" means laminated wood products and wooden I-beams. A vehicle engaged in the transportation of secondary wood products may also transport a divisible load of secondary wood products that otherwise exceeds allowable load length limits if:

(a) The load contains a permitted, nondivisible secondary wood product that exceeds the length allowed in ORS 818.080 or 818.100;

(b) The divisible load does not exceed the length allowed for the nondivisible wood product in the permit; and

(c) Not more than 49 percent of each divisible load item, by length or weight, authorized by this subsection overhangs the vehicle transporting the load.

(7) A vehicle engaged in the transportation of lumber, veneer or plywood, which may be issued a permit for an overwidth load if the width of the divisible load does not exceed nine feet.

(8) A vehicle transporting an overheight marine container to or from a marine port facility.

(9) A vehicle or combination of vehicles engaged in hauling grass seed straw, grass hay or cereal grain straw, which may be issued a permit to allow the load to be up to 14 feet 6 inches high. A permit issued under this subsection shall be valid for one year and shall specify the routes over which the overheight load may be hauled.

(10) A vehicle or combination of vehicles that has a variance permit and that can carry items related to the already permitted load without increasing the size of the vehicle needed to carry the item requiring the variance permit.

(11) A vehicle engaged in hauling poplar logs or the processing residual from the logs, which may be issued an annual overwidth permit for a vehicle and load with a combined width of not more than 12 feet. The annual permit shall allow movement of the vehicle only on Patterson Ferry Road and Frontage Road in Morrow County and only for a distance of 5,000 feet or less.

(12) A vehicle or combination of vehicles engaged in hauling bagged grass seed or mint leaves in sacks, which may be issued a permit to allow the load to be up to nine feet six inches wide. A permit issued under this subsection shall be valid for one year and shall specify the routes over which the overwidth load may be hauled.

(13) A combination of a truck tractor and two property-carrying units that exceeds the maximum length established under ORS 818.080 if:

(a) The combined length of the two property-carrying units does not exceed 82 feet 8 inches;

(b) The combination is used only to transport sugar beets; and

(c) The combination is operated on U.S. Highway 20, U.S. Highway 26, U.S. Highway 30 or State Highway 201 in the vicinity of or between the cities of Vale, Ontario and Nyssa. [1983 c.338 §536; 1985 c.16 §275; 1989 c.431 §1; 1991 c.261 §1; 1991 c.880 §5; 1993 c.416 §1; 1995 c.488 §1; 1997 c.360 §1; 1997 c.466 §1; 1999 c.59 §244; 1999 c.352 §1; 2001 c.335 §3; 2015 c.77 §1; 2019 c.490 §1]

818.220 Requirements, conditions and procedures for issuance of variance permit; duration; cancellation; rules. This section establishes requirements, conditions and procedures for issuance of variance permits under ORS 818.200 as follows:

(1) In issuing a permit, the road authority may:

(a) Grant a permit that is valid for a single trip, a number of trips or continuous operation.

(b) Establish seasonal or other time limitations on a permit.

(c) Establish any additional terms, limits or conditions on a permit that are necessary or desirable for the protection of the highways and streets and the public interest.

(d) Require the applicant to furnish public liability and property damage insurance in an amount fixed by the granting authority.

(e) Require the applicant to furnish indemnity insurance or an indemnity bond, in an amount fixed by the granting authority, to:

(A) Indemnify the road authority for any damage to the highways or streets that may be caused under the permit; and

(B) Indemnify the members, officers, employees and agents of the road authority from any claim that might arise out of the granting of the permit and the use of the highways under the permit.

(f) Require a demonstration by the applicant to establish that operation under a permit would:

(A) Stay on the right side of the center line of the traveled way at all times; and

(B) Allow sufficient room in the opposing traffic lane for the safe movement of other vehicles.

(2) A permit shall be in writing and shall specify:

(a) All highways or streets over which the permit is valid.

(b) Any vehicle, combination of vehicles, load, article, property, machine or thing allowed under the permit.

(c) Maximum dimensions and maximum weights allowed under the permit.

(3) A road authority may not issue a permit under this section:

(a) That is valid for longer than one year.

(b) Until any insurance or bond required under this section is filed with and accepted by the granting authority.

(c) Until the granting authority has investigated any representations made in the application for the permit.

(d) If the sole purpose of the permit is to specify highways on which a vehicle or combination of vehicles may not travel.

(4) An application for a permit issued under this section shall be in writing and shall specify:

(a) The vehicle, combination of vehicles, load, article, property, machine or thing for which the permit is requested;

(b) The particular highways and streets for which the permit is sought; and

(c) Whether the permit is sought for a single trip, number of trips or continuous operation.

(5) This section does not authorize:

(a) Except as specified in a permit, any vehicle, combination of vehicles, load, article, property, machine or thing for which the permit is issued to be operated or moved contrary to any provisions of the vehicle code.

(b) Any movement or operation of a vehicle, combination of vehicles, load, article, property, machine or thing until a permit is issued.

(6) The road authority may appoint any of its officers, employees or agents to be present at and during the movement. The presence of any person so appointed and any interference or suggestion made by that person shall not be considered supervision of the movement and shall not relieve the permit holder, or the permit holder's insurers or sureties, from liability for any damage done by the movement. If, in the opinion of the person appointed to be present at and during the movement, any of the terms and conditions of the permit are not being complied with, that person may order the movement to be stopped.

(7) Any permit may be canceled at any time by the road authority upon proof satisfactory to it that:

(a) The permit holder has violated any of the terms of the permit;

(b) The permit was obtained through misrepresentation in the application therefor; or

(c) The public interest requires cancellation.

(8) A road authority may establish a program for issuance of permits that is not subject to any requirements, conditions or procedures described under this section. A program established under this subsection shall be established by rule or resolution, as appropriate. A program established under this subsection may include any of the following:

(a) Provisions and requirements that differ from those otherwise required under this section.

(b) Authority that is not subject to the limitations under ORS 818.210.

(c) Any provisions or requirements the road authority determines may simplify or expedite the process of issuing permits.

(d) Exclusions from the prohibitions and penalties under ORS 818.350 if the person or vehicle complies with the conditions of the permit and the program.

(e) Applicability of the penalties provided under ORS 818.340, 818.350 and 818.410 for violation of the program.

(9) Notwithstanding any other provision of this section, if a road authority other than the state issues a variance permit for a divisible load with a combined weight of more than 80,000 pounds, the variance permit shall be a one-year permit that is valid for continuous operation.

(10) The Department of Transportation may adopt rules to establish uniform requirements and consistent mitigation strategies that a road authority must apply as conditions for operation of a truck tractor and semitrailer combination under an overlength variance permit issued under ORS 818.200. [1983 c.338 §537; 1985 c.16 §276; 1989 c.432 §1; 2003 c.185 §3]

818.225 Road use assessment fee for single-trip nondivisible load permittee; rules. (1) As used in this section, "equivalent single-axle load" means the relationship between actual or requested weight and an 18,000 pound single-axle load as determined by the American Association of State Highway and Transportation Officials Road Tests reported at the Proceedings Conference of 1962.

(2)(a) In addition to any fee for a single-trip nondivisible load permit, a person who is issued the permit or who operates a vehicle in a manner that requires the permit is liable for payment of a road use assessment fee computed on the basis of the following rates per equivalent single-axle load mile traveled:

(A) For the period beginning on January 1, 2018, and ending on December 31, 2019, eight and five-tenths cents.

(B) For the period beginning on January 1, 2020, and ending on December 31, 2021, nine and three-tenths cents.

(C) For the period beginning on January 1, 2022, and ending on December 31, 2023, ten and three-tenths cents.

(b) If the road use assessment fee is not collected at the time of issuance of the permit, the department shall bill the permittee for the amount due. The account shall be considered delinquent if not paid within 60 days of billing.

(c) The miles of travel authorized by a single-trip nondivisible load permit shall be exempt from taxation under ORS chapter 825.

(3) The department may adopt rules:

(a) To standardize the determination of equivalent single-axle load computation based on average highway conditions; and

(b) To establish procedures for payment, collection and enforcement of the fees and assessments established by this chapter. [1989 c.992 §15; 1991 c.497 §12; 1995 c.447 §4; 1995 c.733 §91; 2003 c.618 §3; 2009 c.865 §51; 2017 c.750 §51; 2018 c.93 §26]

Note: The amendments to 818.225 by section 52, chapter 750, Oregon Laws 2017, become operative January 1, 2024, and apply to road use assessment fees imposed on or after January 1, 2024. See section 53, chapter 750, Oregon Laws 2017, and section 139, chapter 750, Oregon Laws 2017, as amended by section 31, chapter 93, Oregon Laws 2018. The text that is operative on and after January 1, 2024, including amendments by section 27, chapter 93, Oregon Laws 2018, is set forth for the user's convenience.

818.225. (1) As used in this section, "equivalent single-axle load" means the relationship between actual or requested weight and an 18,000 pound single-axle load as determined by the American Association of State Highway and Transportation Officials Road Tests reported at the Proceedings Conference of 1962.

(2)(a) In addition to any fee for a single-trip nondivisible load permit, a person who is issued the permit or who operates a vehicle in a manner that requires the permit is liable for payment of a road use assessment fee of ten and nine-tenths cents per equivalent single-axle load mile traveled.

(b) If the road use assessment fee is not collected at the time of issuance of the permit, the department shall bill the permittee for the amount due. The account shall be considered delinquent if not paid within 60 days of billing.

(c) The miles of travel authorized by a single-trip nondivisible load permit shall be exempt from taxation under ORS chapter 825.

(3) The department may adopt rules:

(a) To standardize the determination of equivalent single-axle load computation based on average highway conditions; and

(b) To establish procedures for payment, collection and enforcement of the fees and assessments established by this chapter.

818.230 Sifting or leaking load permit; duration; fee. A sifting or leaking load permit is a vehicle permit that is issued as evidence of a grant of authority to operate a vehicle loaded or constructed in a manner that, without the permit, would violate ORS 818.300. Each road authority shall grant permits for its own highways. Permits issued under this section shall comply with all of the following:

(1) Permits shall be in writing.

(2) Permits shall be issued only for the following:

(a) Vehicles transporting food processing plant by-products to be used for livestock feed or fertilizer from which there is fluid leakage.

(b) Vehicles transporting agricultural products from which there is fluid leakage, while the vehicles are en route from the place of harvest to a place where the products will be processed, stored or sold.

(3) Permits shall be issued for a maximum period of one year.

(4) Permits are revocable if the issuing road authority finds that the amount or character of the fluid leakage is such that it constitutes a danger to other vehicles.

(5) The fee for issuance of a sifting or leaking load permit is as provided under ORS 818.270.

(6) No fee shall be charged for issuance of a permit to the federal government, agencies of the State of Oregon, counties or cities. [1983 c.338 §538; 1985 c.179 §1]

818.235 Permit for wide load of hay bales. Notwithstanding ORS 818.210, a granting authority may issue a permit under ORS 818.200 for any vehicle or combination of vehicles engaged in the transportation of hay bales with a manufactured width of more than three feet, if the total width of load does not exceed 10 feet and the load is not wider than the part of the vehicle that carries the load. Vehicle width may be temporarily extended in order to qualify for a permit under this section. [1985 c.534 §5]

Note: 818.235 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 818 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

818.240 Dragging permit; fee. A dragging permit is a vehicle permit that is issued as evidence of a grant of authority to drag something upon or over the surface of the highway without violation of ORS 818.320. Except as otherwise provided in this section, each road authority shall grant permits for its own highways. Permits issued under this section shall comply with all of the following:

(1) Permits shall be in writing.

(2) The Department of Transportation has the authority for issuance of permits on city streets over which a state highway is routed pursuant to ORS 373.010.

(3) The fee for issuance of a dragging permit is as provided under ORS 818.270.

(4) No fee shall be charged for issuance of a permit to the federal government, agencies of the State of Oregon, counties or cities. [1983 c.338 §539]

818.250 Permit for fire company warning lights. The governing body of a rural fire protection district or of a municipal fire department may issue written authorization for the use of fire company warning lights on vehicles that are used while driving to a fire station or fire location in response to a fire alarm. Written authorization issued under this section shall comply with all of the following:

(1) Written authorization may be issued only to authorize use of the warning lights on any vehicle, whether publicly or privately owned, if used by:

(a) A fire chief, assistant fire chief or volunteer firefighter selected by the board of directors of a rural fire protection district organized under ORS chapter 478; or

(b) Any person authorized to serve as fire chief, assistant fire chief or volunteer firefighter by the governing body of any municipal fire department.

(2) Any lights authorized under this section must be and remain the property of the rural fire protection district or municipality involved. [1983 c.338 §540; 1985 c.16 §277]

818.260 Permit for use of bus safety lights on certain buses; rules; fee. (1) Upon receipt of a qualifying application and payment of any fee required, the Department of Transportation shall issue a permit that will allow the use of bus safety lights described in ORS 816.260 on any bus that is operated by a religious organization while the bus is being used to transport children to and from religious services or an activity or function authorized by the religious organization.

(2) The department shall adopt rules necessary to carry out this section. The department:

(a) May establish standards for application for a permit under this section.

(b) May require a fee for issuance of a permit under this section as provided under ORS 818.270.

(c) May provide for the revocation of a permit if the lights are used in circumstances not described in this section.

(d) Shall adopt rules for operation of lights under a permit issued under this section. The standards adopted under this paragraph shall require the lights to be operated in a manner similarly to the manner for operation of the same lights on school buses.

(e) Shall require, before issuance of a permit under this section, that the vehicle be equipped with both alternately flashing amber bus safety lights and alternately flashing red bus safety lights. [1983 c.338 §541]

818.270 Fees for permits. (1) The fee for issuance of a variance permit under ORS 818.200 may be any amount determined by a road authority, not to exceed $8. If the variance permit is issued by a private contractor, the contractor may charge an additional fee not to exceed $5.

(2) The fee for issuance of a sifting or leaking load permit under ORS 818.230 is $8.

(3) The fee for issuance of a dragging permit under ORS 818.240 is $8.

(4) The fee for issuance of a permit under ORS 818.260 for the use of bus safety lights is a fee established by rule by the Department of Transportation. Any fee established for purposes of this subsection may not exceed the actual costs of issuing the permit. [1983 c.338 §542; 1985 c.16 §278; 1985 c.736 §5; 1989 c.992 §13; 1995 c.123 §2; 1997 c.232 §1; 2017 c.750 §§54,55; 2018 c.93 §28]

PERMIT OFFENSES

818.300 Operating with sifting or leaking load; civil liability; penalty. (1) A person commits the offense of operating with a sifting or leaking load if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that is so constructed or loaded so as to allow its contents to drop, sift, leak or otherwise escape therefrom.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles is so constructed or loaded so as to allow its contents to drop, sift, leak or otherwise escape therefrom.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.310.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, operating with a sifting or leaking load, is a Class B traffic violation. [1983 c.338 §524; 1985 c.393 §31]

818.310 Exemptions from prohibition on sifting and leaking load. This section establishes exemptions from ORS 818.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions are partial or complete as described in the following:

(1) ORS 818.300 does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) ORS 818.300 does not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.

(3) Operations authorized under the terms of a permit issued under ORS 818.230 are subject to the terms of the permit. It is a defense to any charge of violation of ORS 818.300 if the person so charged produces a permit issued under ORS 818.230 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense. [1983 c.338 §525; 1985 c.16 §270; 1987 c.158 §173]

818.320 Dragging objects on highway; civil liability; penalty. (1) A person commits the offense of dragging objects on a highway if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that is dragging upon or over the surface of the highway any logs, poles, piling or other thing.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway while dragging upon or over the surface of the highway any logs, poles, piling or other thing. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.330.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, dragging objects on a highway, is a Class D traffic violation. [1983 c.338 §526; 1985 c.393 §32; 1995 c.383 §95]

818.330 Exemptions from prohibition on dragging objects on highway. This section establishes exemptions from ORS 818.320. The exemptions in this section are in addition to any under ORS 801.026. Exemptions are partial or complete as described in the following:

(1) Operations authorized under terms of a permit issued under ORS 818.240 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.320 if the person so charged produces a

permit issued under ORS 818.240 authorizing the operation issued prior to and valid at the time of the offense.

(2) ORS 818.320 does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(3) ORS 818.320 does not apply on any road, thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both. [1983 c.338 §527; 1987 c.158 §174]

818.340 Operating in violation of variance permit; exception; civil liability; penalties. (1) A person commits the offense of operating in violation of a variance permit if the person has been issued a variance permit under ORS 818.200 that authorized the movement of anything and the person does any of the following:

(a) Drives, moves or operates anything in violation of the terms of the permit.

(b) Owns anything and causes or permits it to be driven, moved or operated in violation of the permit. Operation in violation of this section is prima facie evidence that the owner caused or permitted the operation and the owner shall be liable for any penalties imposed under subsection (5) of this section as a result of the operation.

(2) A person is in violation of the terms of a permit for purposes of this section if the person misrepresents any size or weight required to be specified when applying for the permit.

(3) It shall be a defense to any charge of violation of this section if the person so charged produces a variance permit issued under ORS 818.200 that authorized the operation and that was issued prior to and valid at the time of operation.

(4) A person does not commit the offense described in this section if the person is driving, moving or operating anything under a variance permit issued under ORS 818.200 and:

(a) The permit authorizes the person to exceed the maximum weight limitations;

(b) The person is operating a vehicle with a fully functional idle reduction system designed to reduce fuel use and emissions from engine idling; and

(c) The total weight of the vehicle is not more than 550 pounds greater than the weight authorized by the variance permit.

(5) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(6) The offense described in this section, operating in violation of a variance permit, is punishable according to the following:

(a) Violation of any provision of the permit, other than the violations described in paragraph (b), (c) or (d) of this subsection, is a Class D violation.

(b) Violation of any weight provision by a vehicle that is authorized by permit to exceed axle or tandem axle weights specified in ORS 818.010 (1) or (2) is subject to penalty under Schedule II of the penalties in ORS 818.430.

(c) Violation of any weight provision by a vehicle listed in ORS 818.210 is subject to penalty under Schedule I of the penalties in ORS 818.430.

(d) Violation related to the required number of pilot vehicles or routing in accordance with the terms, limits or conditions established on a permit under ORS 818.220 (1)(c) is a Class A traffic violation. [1983 c.338 §528; 1985 c.16 §272; 1995 c.339 §1; 1997 c.360 §2; 1999 c.352 §2; 2007 c.92 §2; 2007 c.664 §2; 2008 c.10 §1; 2019 c.491 §13]

818.350 Failure to carry and display variance permit; penalty. (1) The driver of any vehicle or combination of vehicles for which a variance permit or a permit identification card has been issued under ORS 818.200 commits the offense of failure to carry and display a variance permit if the driver does not:

(a) Have the variance permit or permit identification card in the driver's immediate possession at all times when driving the vehicle or combination of vehicles upon a public highway, road or street; and

(b) Display the variance permit or permit identification card upon demand of any police officer, motor carrier enforcement officer, county weighmaster, judicial officer or the director of permits of the Department of Transportation.

(2) Producing a variance permit issued prior to and valid at the time of an offense under this section is not a defense for a charge under this section.

(3) The offense described under this section, failure to carry and display a variance permit, is a Class D traffic violation. [1983 c.338 §529; 1985 c.16 §271; 1985 c.393 §33; 1993 c.741 §100; 1995 c.383 §96]

ENFORCEMENT

818.400 Failure to comply with commercial vehicle enforcement requirements; penalty. (1) A person commits the offense of failure to comply with commercial vehicle enforcement requirements if the person is driving a vehicle or combination of vehicles and the person does not comply with any of the following or if the person is the owner of a vehicle or combination of vehicles and the person causes or permits the vehicle or combination not to comply with any of the following:

(a) A vehicle or combination of vehicles must stop and submit to any enforcement of commercial vehicle weight, size, load, conformation or equipment regulation when directed to do so by an "OPEN" sign displayed at a permanently established truck scale.

(b) A vehicle or combination of vehicles must stop and submit to any enforcement of commercial vehicle weight, size, load, conformation or equipment regulation when directed to do so by any sign or signal displayed or given by a police officer, motor carrier enforcement officer or weighmaster acting in accordance with authority granted under ORS 810.490.

(c) A vehicle or combination of vehicles must move into the right lane for purposes of a weight or size check when instructed to do so by a sign indicating the presence of a weigh-in-motion scale.

(d) The directions of any police officer, motor carrier enforcement officer or weighmaster that are given in accordance with authority granted under ORS 810.490 or 810.530 must be complied with.

(2) The requirement of subsection (1)(a) of this section does not apply to:

(a) An empty combination of a log truck and pole trailer if the pole trailer is bunked on the log truck and there is no other load; or

(b) A vehicle or combination of vehicles if:

(A) The normal route of the vehicle or combination of vehicles requires turning off the highway after passing the "OPEN" sign but before reaching the scale; and

(B) The vehicle or combination of vehicles is en route to a terminal or other legitimate business.

(3) Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of such vehicle or combination caused or permitted it to be so operated and the owner shall be liable for any penalties imposed under this section.

(4) The offense described in this section, failure to comply with commercial vehicle enforcement requirements, is a Class B misdemeanor. The penalty provided under this subsection is in addition to any penalty provided for violation of any prohibition relating to vehicle weight, size, load, conformation or equipment. [1983 c.338 §533; 1985 c.393 §35; 1987 c.897 §2; 1993 c.741 §101; 1995 c.27 §1; 1995 c.101 §1; 1997 c.722 §6]

818.410 Civil liability for certain violations. The owner and driver of anything using a state, county or city highway, street or bridge in violation of the sections described in this section are jointly and severally liable to the state, county or city for all damage done as a result of the violation. Liability to the state, county or city depends upon whether it is a state, county or city highway, street or bridge. This section applies to a violation of any of the following:

(1) Maximum weight limits under ORS 818.020.

(2) Posted weight limits under ORS 818.040.

(3) Maximum size limits under ORS 818.090.

(4) Maximum number of vehicles in combination under ORS 818.110.

(5) Posted limits on use of roads under ORS 818.130.

(6) Towing safety requirements under ORS 818.160.

(7) Sifting or leaking load prohibition under ORS 818.300.

(8) Dragging object prohibition under ORS 818.320.

(9) Devices without wheels under ORS 815.155.

(10) Use of prohibited metal objects on tires under ORS 815.160.

(11) Operation without pneumatic tires under ORS 815.170.

(12) Operation in violation of variance permit under ORS 818.340.

(13) Temporarily reduced speeds established by a road authority under ORS 810.180.

(14) Exclusive use lanes established under ORS 810.140. [1983 c.338 §530; 1985 c.16 §273; 2003 c.819 §16]

818.420 Penalties for certain violations. (1) This subsection establishes a schedule of penalties for certain offenses in ORS 818.060 and 818.090. Commission of any of the described offenses relating to height or width limits is punishable according to the following schedule:

(a) Except as otherwise provided in this section, upon a first conviction, an offense is punishable as a Class D traffic violation.

(b) Upon a second conviction within one year after the first conviction, an offense is punishable as a Class C traffic violation.

(c) Upon a third or subsequent conviction within one year after the first conviction, an offense is punishable as a Class B traffic violation.

(2) Any offense that is described in ORS 818.060 or 818.090 and that is not punishable under subsection (1) of this section, is punishable as a Class D traffic violation. [1983 c.338 §531; 1985 c.393 §34; 1987 c.897 §3; 1995 c.383 §121; 2007 c.664 §3]

818.430 Penalties for violation of weight requirements. This section establishes schedules of presumptive fines for violations of maximum weight requirements under the vehicle code. The particular schedule applicable is the schedule designated in the section establishing the offense. Upon conviction, a person is punishable by a fine and other penalty established in the schedule. Fines are based upon the excess weight by which any loaded weight exceeds the applicable loaded weight authorized in the provision, permit, order or resolution the person violates. The schedules are as follows:

(1) The presumptive fines under Schedule I are as provided in this subsection. If the excess weight is:

(a) One thousand pounds or less, the presumptive fine is $100.

(b) More than 1,000 pounds, but not in excess of 2,000 pounds, the presumptive fine is $150.

(c) More than 2,000 pounds, but not in excess of 3,000 pounds, the presumptive fine is $200.

(d) More than 3,000 pounds, but not in excess of 5,000 pounds, the presumptive fine is $300.

(e) More than 5,000 pounds, but not in excess of 7,500 pounds, the presumptive fine is an amount equal to 15 cents per pound for each pound of the excess weight.

(f) More than 7,500 pounds, but not in excess of 10,000 pounds, the presumptive fine is an amount equal to 16 cents per pound for each pound of the excess weight.

(g) More than 10,000 pounds, but not in excess of 12,500 pounds, the presumptive fine is an amount equal to 20 cents for each pound of the excess weight.

(h) More than 12,500 pounds over the allowable weight, the presumptive fine is an amount equal to 24 cents per pound for each pound of excess weight.

(2) The presumptive fines under Schedule II are as provided in this subsection. If the excess weight is:

(a) One hundred pounds, but not in excess of 5,000 pounds, the presumptive fine is an amount equal to $200 plus 10 cents per pound of the excess weight.

(b) More than 5,000 pounds, but not in excess of 10,000 pounds, the presumptive fine is an amount equal to $350 plus 15 cents per pound of the excess weight.

(c) More than 10,000 pounds, the presumptive fine is an amount equal to $600 plus 30 cents per pound of the excess weight.

(3) Notwithstanding ORS 153.021, the fine imposed under subsection (2) of this section shall be not more than $100 if a person charged with an offense punishable under Schedule II produces in court a second valid variance permit issued under ORS 818.200 authorizing a loaded weight equal to or greater than the actual loaded weight of the vehicle, combination of vehicles, axle, tandem axles or group of axles upon which the citation was based.

(4) The penalties under Schedule III are as provided in this subsection and are in addition to any suspension of operator's license under ORS 809.120 or any suspension of vehicle registration under ORS 809.120. If the excess weight is:

(a) One hundred pounds, but not in excess of 5,000 pounds, the presumptive fine is $200 plus 15 cents per pound for each pound of the excess weight.

(b) More than 5,000 pounds but not in excess of 10,000 pounds, the presumptive fine is $350 plus 20 cents per pound for each pound of excess weight.

(c) More than 10,000 pounds, the presumptive fine is $500, plus 30 cents per pound for each pound of excess weight. [1983 c.338 §532; 1985 c.16 §274; 1987 c.897 §4; 1993 c.531 §8; 1995 c.79 §377; 1995 c.339 §2; 1999 c.668 §1; 2011 c.597 §108; 2012 c.89 §12]

818.440 Penalty for procuring, aiding or abetting violation of this chapter. Any person who knowingly and willfully procures, aids or abets in the violation of a provision of this chapter is subject to the penalty provided for a person who violates the provision. [1987 c.897 §6]

818.450 Civil penalty for violations of chapter. In addition to any penalty provided in a specific statute in this chapter, any person who violates a provision of this chapter is subject to civil penalty as provided in ORS 825.950. [1997 c.722 §3]

Chapter 819

2019 EDITION

Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers

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DESTROYED AND TOTALED VEHICLES

819.010 Failure to comply with requirements for destruction of vehicle; exception; penalty. (1) A person commits the offense of failure to comply with requirements for destruction of a vehicle if the person wrecks, dismantles, disassembles or substantially alters the form of any vehicle that is or is required to be registered or titled under the vehicle code or under ORS chapter 826 and the person does not comply with all of the following:

(a) The person must give notice to the Department of Transportation, in a form specified by the department, of the person's intention to dismantle, disassemble, wreck or substantially alter the form of the vehicle at least seven days prior to commencement thereof.

(b) If the vehicle is visible from a public right of way, the person must complete the wrecking, dismantling, disassembling or substantial alteration of form within 30 days from the commencement thereof.

(c) If the vehicle is registered by this state, the person must deliver or mail to the department the registration card, certificate of title, if one has been issued, and registration plates of the vehicle within 30 days after the person wrecks, dismantles, disassembles or substantially alters the form of the vehicle.

(d) If no certificate of title has been issued for the vehicle, the person must notify the department in a manner determined by the department by rule within 30 days after the person wrecks, dismantles, disassembles or substantially alters the form of the vehicle.

(e) If required to do so under ORS 819.016, the person shall apply for a salvage title for the vehicle.

(2) This section does not apply to persons who are acting within the scope of a dismantler certificate issued under ORS 822.110.

(3) The offense described in this section, failure to comply with requirements for destruction of vehicle, is a Class A misdemeanor. [1983 c.338 §193; 1985 c.16 §68; 1985 c.401 §2; 1991 c.407 §33; 1991 c.873 §36; 1993 c.233 §57; 1993 c.751 §75; 2005 c.654 §27; 2007 c.683 §1]

819.012 Failure to follow procedures for a totaled vehicle; penalty. (1) A person other than an insurer commits the offense of failure to follow procedures for a totaled vehicle if the person:

(a) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (1) and does not surrender the certificate of title for the vehicle either to the Department of Transportation or to the insurer within 30 days of the declaration or other relevant act by the insurer.

(b) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (2) and does not notify the department of the status of the vehicle within 30 days of the day that the vehicle became a totaled vehicle.

(c) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (3) and does not surrender the certificate of title for the vehicle to the department within 30 days of the date the vehicle became a totaled vehicle.

(d) Receives or purchases a totaled vehicle and does not surrender the certificate of title for the vehicle to the department within 30 days of purchase or receipt of the vehicle.

(2) A person is not required to surrender the certificate of title if the person is unable to obtain the certificate for the vehicle. If the person is unable to obtain the certificate, the person shall notify the department that the vehicle is a totaled vehicle and shall notify the department of the reason that the person is unable to surrender the certificate.

(3) A person is not required to surrender the certificate of title if:

(a) The person transferred their interest in the totaled vehicle to a tower pursuant to ORS 822.235; or

(b) The person is a tower that received interest in the totaled vehicle pursuant to ORS 822.235 and the tower subsequently transfers interest in the totaled vehicle to a dismantler within 30 days of the date the tower received interest in the totaled vehicle.

(4) If the vehicle is one for which title was issued in a form other than a certificate, the person shall notify the department that the vehicle is a totaled vehicle and shall follow procedures adopted by the department by rule.

(5) The offense described in this section, failure to follow procedures for a totaled vehicle, is a Class A misdemeanor. [1991 c.820 §4; 1993 c.233 §58; 2017 c.523 §6]

819.014 Insurer failure to follow procedures for totaled vehicle; penalty. (1) An insurer commits the offense of insurer failure to follow procedures for a totaled vehicle if the insurer declares that the vehicle is a totaled vehicle and does not:

(a) Obtain the certificate of title from the owner of the vehicle as a condition of settlement of the claim and surrender it to the Department of Transportation within 30 days of its receipt; or

(b) If the insurer does not obtain the certificate from the registered owner, notify the department that the vehicle is a totaled vehicle within 30 days of declaring it to be so, or taking title to or possession of it, and notify the registered owner of the vehicle that the registered owner must surrender the certificate to the department and must notify any subsequent purchaser that the vehicle is a totaled vehicle.

(2) If the vehicle is one for which title was issued in a form other than a certificate, the insurer shall notify the department that the vehicle is a totaled vehicle and shall follow procedures adopted by the department by rule.

(3) The offense described in this section, insurer failure to follow procedures for a totaled vehicle, is a violation of the Insurance Code, as provided in ORS 746.308. [1991 c.820 §4a; 1993 c.233 §59]

819.016 When salvage title required; rules. (1) Except as provided in subsection (2) of this section, when the provisions of ORS 819.010, 819.012 or 819.014 require a person to surrender to the Department of Transportation a certificate of title for a vehicle, or when a person acquires a vehicle under the provisions of ORS 819.215, the person shall apply to the department for a salvage title for the vehicle. The application shall comply with the requirements of ORS 803.140.

(2) When the person is not required to surrender a certificate of title because title for the vehicle was issued in some other form, the person shall follow procedures adopted by the department by rule.

(3) Subsections (1) and (2) of this section do not apply if the person does not intend to rebuild or repair the vehicle, to transfer the vehicle or to use the frame or unibody of the vehicle for repairing or constructing another vehicle. [1991 c.820 §23; 1991 c.873 §26; 1993 c.233 §60; 2009 c.371 §3]

819.018 Failure to notify subsequent purchaser of condition of vehicle; rules; penalty. (1) A person commits the offense of failure to notify a subsequent purchaser of the condition of a vehicle if the person sells a totaled vehicle and does not provide the purchaser with a salvage title certificate or, if no certificate is required as evidence of salvage title, does not comply with rules adopted by the Department of Transportation for notification of salvage title without a certificate.

(2) The offense described in this section, failure to notify a subsequent purchaser of the condition of a vehicle, is a Class A misdemeanor when committed by someone other than an insurer. [1991 c.820 §§5,22; 1993 c.233 §61]

819.020 [1983 c.338 §195; 1985 c.16 §69; 1985 c.176 §1; 1987 c.119 §5; repealed by 1991 c.820 §20]

819.030 Department procedure on receipt of title or notice. The Department of Transportation shall comply with the following procedures upon receiving a certificate of title or other notice in accordance with the provisions of ORS 819.010, 819.012 or 819.014:

(1) If the department is satisfied that the vehicle is wrecked, dismantled or disassembled, the department shall cancel and retire the registration and title of the vehicle. Except for issuance of a salvage title, the department may not register or title the vehicle again unless:

(a) The department is satisfied that the original title certificate, if any, was surrendered in error or that notice was submitted in error and the record canceled in error; or

(b) The vehicle is registered or titled as an assembled vehicle, a reconstructed vehicle or a replica.

(2) If the department is satisfied that the vehicle is wrecked, dismantled or disassembled, the department may issue a proof of compliance form if no salvage title is issued for the vehicle.

(3) If the department is satisfied that the vehicle is totaled or substantially altered, the department may:

(a) Issue a salvage title, retire the vehicle's registration and cancel the title; or

(b) Issue a branded title.

(4) If a vehicle is recovered after a theft and the theft is the reason that the vehicle was considered a totaled vehicle or the department issues a branded title for a totaled or substantially altered vehicle, a person may apply with the department to keep the same registration plates and the remaining registration period represented by the plates with that vehicle. The department may allow the owner to keep the registration plates if the plates are legible and capable of being used for identification purposes.

(5) A person may apply with the department to transfer plates from a vehicle for which the department previously received a totaled or substantially altered notification. A plate transfer request must be in accordance with the provisions of ORS 803.530.

(6) The owner of a vehicle whose title and registration have been canceled and retired due to the department being notified it is totaled, wrecked, dismantled, disassembled or substantially altered is entitled to an administrative review to determine whether the notification was correct. [1983 c.338 §196; 1985 c.176 §2; 1985 c.401 §3; 1987 c.119 §6; 1991 c.820 §8; 1991 c.873 §38; 1993 c.233 §62; 2019 c.17 §2]

819.040 Illegal salvage procedures; penalty. (1) A person commits the offense of illegal salvage procedures if the person engages in crushing, compacting or shredding of vehicles and the person violates any requirements under the following:

(a) The person may accept vehicles as salvage material from other persons who hold a dismantler certificate issued under ORS 822.110.

(b) Except as otherwise provided in this subsection, the person may not accept vehicles from another person who does not hold a dismantler certificate issued under ORS 822.110, unless the other person:

(A) Complies with the requirements of ORS 819.010, or is in possession of a salvage title certificate; and

(B) Displays a salvage title certificate, a compliance form issued under ORS 819.030, or a certificate of sale to the person engaged in salvage.

(c) The person engaged in salvage may accept a copy of the Department of Transportation form issued under ORS 819.030 as proof of compliance under ORS 819.010 or may accept a certificate of sale or a salvage title certificate, as applicable, and surrender such copy or certificate to the department.

(d) The person may accept vehicles as salvage material from tow businesses disposing of vehicles as authorized under ORS 819.215 or 819.280 if the tow business gives the person a copy of notification made to the department under ORS 819.215 or 819.280.

(2) If a salvage title has been issued in a form other than a certificate, the person engaged in salvage may accept documents or information in a manner or form determined by the department by rule.

(3) The offense described in this section, illegal salvage procedures, is a Class A misdemeanor. [1983 c.338 §197; 1985 c.16 §70; 1991 c.873 §39; 1993 c.233 §63; 1993 c.326 §3; 2005 c.654 §28; 2005 c.738 §3; 2009 c.371 §4]

ABANDONED VEHICLES

(Offense)

819.100 Abandoning a vehicle; penalty. (1) A person commits the offense of abandoning a vehicle if the person abandons a vehicle upon a highway or upon any public or private property.

(2) The owner of the vehicle as shown by the records of the Department of Transportation shall be considered responsible for the abandonment of a vehicle in the manner prohibited by this section and shall be liable for the cost of towing and disposition of the abandoned vehicle.

(3) A vehicle abandoned in violation of this section is subject to the provisions for towing and sale of abandoned vehicles under ORS 819.110 to 819.215.

(4) The offense described in this section, abandoning a vehicle, is a Class B traffic violation. [1983 c.338 §677; 1995 c.758 §7; 2009 c.371 §5]

(Custody and Towing)

819.110 Custody, towing and sale or disposal of abandoned vehicle; general provisions. (1) After providing notice required under ORS 819.170 and, if requested, a hearing under ORS 819.190, an authority described under ORS 819.140 may take a vehicle into custody and tow the vehicle if:

(a) The authority has reason to believe the vehicle is disabled or abandoned; and

(b) The vehicle has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.

(2) The power to take vehicles into custody under this section is in addition to any power to take vehicles into custody under ORS 819.120.

(3) Subject to ORS 819.150, vehicles and the contents of vehicles taken into custody under this section are subject to a lien as provided under ORS 819.160.

(4) The person that tows a vehicle under this section shall have the vehicle appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480.

(5) Vehicles taken into custody under this section are subject to sale or disposal under ORS 819.210 or 819.215 if the vehicles are not reclaimed as provided under ORS 819.150 or returned to the owner or person entitled to possession under ORS 819.190. [1983 c.338 §417; 1995 c.758 §8; 2009 c.371 §6]

819.120 Immediate custody and towing of vehicle constituting hazard or obstruction; rules. (1) An authority described under ORS 819.140 may immediately take custody of and tow a vehicle that is disabled, abandoned, parked or left standing unattended on a road or highway right of way and that is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway.

(2) As used in this section, a "hazard or obstruction" includes, but is not necessarily limited to:

(a) Any vehicle that is parked so that any part of the vehicle extends within the paved portion of the travel lane.

(b) Any vehicle that is parked so that any part of the vehicle extends within the highway shoulder or bicycle lane:

(A) Of any freeway within the city limits of any city in this state at any time if the vehicle has a gross vehicle weight of 26,000 pounds or less;

(B) Of any freeway within the city limits of any city in this state during the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. if the vehicle has a gross vehicle weight of more than 26,000 pounds;

(C) Of any freeway within 1,000 feet of the area where a freeway exit or entrance ramp meets the freeway; or

(D) Of any highway during or into the period between sunset and sunrise if the vehicle presents a clear danger.

(3) As used in this section, "hazard or obstruction" does not include parking in a designated parking area along any highway or, except as described in subsection (2) of this section, parking temporarily on the shoulder of the highway as indicated by a short passage of time and by the operation of the hazard lights of the vehicle, the raised hood of the vehicle, or advance warning with emergency flares or emergency signs.

(4) An authority taking custody of a vehicle under this section must give the notice described under ORS 819.180 and, if requested, a hearing described under ORS 819.190.

(5) The power to take vehicles into custody under this section is in addition to any power to take vehicles into custody under ORS 819.110.

(6) Subject to ORS 819.150, vehicles and the contents of vehicles taken into custody under this section are subject to a lien as provided under ORS 819.160.

(7) The person that tows a vehicle under this section shall have the vehicle appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480.

(8) Vehicles taken into custody under this section are subject to sale or disposal under ORS 819.210 or 819.215 if the vehicles are not reclaimed under ORS 819.150 or returned to the owner or person entitled thereto under ORS 819.190.

(9) The Oregon Transportation Commission, by rule, shall establish additional criteria for determining when vehicles on state highways, interstate highways and state property are subject to being taken into immediate custody under this section. [1983 c.338 §418; 1985 c.77 §1; 1991 c.464 §1; 1995 c.758 §9; 2007 c.509 §1; 2009 c.371 §7]

819.130 [1983 c.338 §419; 1985 c.16 §221; 1993 c.385 §4; repealed by 1995 c.758 §23]

819.140 Agencies having authority to take vehicle into custody; powers of agency taking custody. (1) This section establishes which agency has the authority to take vehicles into custody under ORS 819.110 and 819.120. The agency with authority to take a vehicle into custody is responsible for notice and hearings under ORS 819.110 to 819.215. Authority to take a vehicle into custody depends on the location of the vehicle as described under the following:

(a) If a vehicle is upon the right of way of a state highway, on an interstate highway that is part of the National System of Interstate and Defense Highways established under section 103(e), title 23, United States Code or on state property, the Department of State Police or the Department of Transportation may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section. Action taken by the Department of State Police or the Department of Transportation under this subsection is not subject to ORS chapter 183.

(b) If the vehicle is upon the right of way of a county road or any other highway or property within the boundaries of a county, the sheriff of the county or a county agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(c) If the vehicle is on a city street or alley, on an interstate highway or other highway within the boundaries of the city or on any other property within the boundaries of a city, the city police or a city agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(2) Except as otherwise provided by this section, an agency taking custody of a vehicle under ORS 819.110 or 819.120 may:

(a) Use its own personnel, equipment and facilities for the towing and preservation of such vehicles; or

(b) Hire or otherwise engage other personnel, equipment and facilities for that purpose. [1983 c.338 §420; 1985 c.16 §222; 1995 c.758 §10; 2003 c.819 §1; 2009 c.371 §8]

819.150 Rights and liabilities of owner. The owner, a person entitled to possession or any person with an interest recorded on the title of a vehicle taken into custody under ORS 819.110 or 819.120:

(1) Is liable for all costs and expenses incurred in the towing, preservation and custody of the vehicle and its contents except that:

(a) The owner, a person entitled to the vehicle or any person with an interest recorded on the title is not liable for nor shall be required to pay storage charges for a period in excess of 20 days unless the person has received a written notice under ORS 819.160. In no case shall a person be required to pay storage charges for a storage period in excess of 60 days.

(b) A security interest holder is not liable under this subsection unless the security interest holder reclaims the vehicle.

(2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under ORS 819.210 or 819.215 upon presentation to the authority holding the vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and expenses for which the person is liable under this section.

(3) If the vehicle is taken into custody under ORS 819.110 or 819.120, has a right to request and have a hearing under ORS 819.190 or under procedures established under ORS 801.040, as appropriate.

(4) If the vehicle is sold or disposed of under ORS 819.210 or 819.215, has no further right, title or claim to or interest in the vehicle or the contents of the vehicle.

(5) If the vehicle is sold or disposed of under ORS 819.210, has a right to claim the balance of the proceeds from the sale or disposition as provided under ORS 87.206.

(6) Has no right to a hearing if the vehicle is disposed of under ORS 819.215. [1983 c.338 §421; 1985 c.316 §2; 1993 c.233 §64; 1993 c.385 §§5,5a; 1995 c.79 §378; 1995 c.758 §11; 2005 c.738 §4; 2009 c.371 §9]

819.160 Lien for towing. (1) Except as otherwise provided by this section, a person shall have a lien on the vehicle and its contents if the person, at the request of an authority described under ORS 819.140, tows any of the following vehicles:

(a) An abandoned vehicle appraised at a value of more than $500 by a person who holds a certificate issued under ORS 819.480.

(b) A vehicle taken into custody under ORS 819.110 or 819.120, unless it is an abandoned vehicle appraised at a value of $500 or less by a person who holds a certificate issued under ORS 819.480.

(c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.

(2) A lien established under this section shall be on the vehicle and its contents for the just and reasonable charges for the towing service performed and any storage provided. However, the storage charge is limited subject to ORS 98.812 (3). A lien described under this section does not attach:

(a) To the contents of any vehicle taken from public property until 15 days after taking the vehicle into custody.

(b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or 811.570.

(3) A person that tows any vehicle at the request of an authority under ORS 819.110 or 819.120 shall transmit by first class mail with a certificate of mailing, no later than the third business day after the vehicle and its contents are placed in storage, written notice, approved by the authority, containing information on the procedures necessary to obtain a hearing under ORS 819.190. The notice shall be provided to the owner, a person entitled to possession or any person with an interest recorded on the title to the vehicle. This subsection does not apply to a person that tows an abandoned vehicle that is appraised at a value of $500 or less by a person who holds a certificate issued under ORS 819.480. [1983 c.338 §422; 1985 c.16 §223; 1993 c.326 §5; 1993 c.385 §6; 1995 c.79 §379; 1995 c.758 §12; 2007 c.538 §15; 2009 c.11 §99; 2009 c.371 §10; 2019 c.547 §4]

819.170 Notice prior to taking vehicle into custody and towing; methods; contents. If an authority proposes to take custody of a vehicle under ORS 819.110, the authority shall provide notice and shall provide an explanation of procedures available for obtaining a hearing under ORS 819.190. Except as otherwise provided under ORS 801.040, notice required under this section shall comply with all of the following:

(1) Notice shall be given by affixing a notice to the vehicle with the required information. The notice shall be affixed to the vehicle at least 24 hours before taking the vehicle into custody. The 24-hour period under this subsection includes holidays, Saturdays and Sundays.

(2) Notice shall state all of the following:

(a) That the vehicle will be subject to being taken into custody and towed by the appropriate authority if the vehicle is not removed before the time set by the appropriate authority.

(b) The statute, ordinance or rule violated by the vehicle and under which the vehicle will be towed.

(c) The place where the vehicle will be held in custody or the telephone number and address of the appropriate authority that will provide the information.

(d) That the vehicle, if taken into custody and towed by the appropriate authority, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.

(e) That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid.

(f) That the owner, possessor or person having an interest in the vehicle is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and towing if a hearing is timely requested.

(g) That the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing.

(h) The time within which a hearing must be requested and the method for requesting a hearing. [1983 c.338 §423; 1985 c.316 §3; 1993 c.385 §§7,7a; 1995 c.758 §13; 2009 c.371 §11]

819.180 Notice after taking into custody and towing; method; contents. (1) If an authority takes custody of a vehicle under ORS 819.120, the authority shall provide, by certified mail within 48 hours of the towing, written notice with an explanation of procedures available for obtaining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.

(2) Any notice given under this section after a vehicle is taken into custody and towed shall state all of the following:

(a) That the vehicle has been taken into custody and towed, the identity of the appropriate authority that took the vehicle into custody and towed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and towed.

(b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.

(c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.

(d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.

(e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and towing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(f) The time within which a hearing must be requested and the method for requesting a hearing.

(g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority. [1983 c.338 §424; 1985 c.316 §4; 1993 c.385 §8; 1995 c.758 §14; 2009 c.371 §12]

819.185 Procedure for vehicles that have no identification markings. If there is no vehicle identification number on a vehicle and there are no registration plates and no other markings through which the Department of Transportation could identify the owner of the vehicle, then an authority otherwise required to provide notice under ORS 819.170 or 819.180 is not required to provide such notice and the vehicle may be towed and disposed of as though notice and an opportunity for a hearing had been given. [1995 c.758 §22; 2009 c.371 §13]

819.190 Hearing to contest validity of custody and towing. A person provided notice under ORS 819.170 or 819.180 or any other person who reasonably appears to have an interest in the vehicle may request a hearing under this section to contest the validity of the towing and custody under ORS 819.120 or proposed towing and custody of a vehicle under ORS 819.110 by submitting a request for hearing with the appropriate authority not more than five days from the mailing date of the notice. The five-day period in this section does not include holidays, Saturdays or Sundays. Except as otherwise provided under ORS 801.040, a hearing under this section shall comply with all of the following:

(1) If the authority proposing to tow a vehicle under ORS 819.110 receives a request for hearing before the vehicle is taken into custody and towed, the vehicle may not be towed unless the vehicle constitutes a hazard.

(2) A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the custody and towing of the vehicle is not justified.

(3) Upon receipt of a request for a hearing under this section, the appropriate authority shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the

owners of the vehicle and any lessors or security interest holders shown in the records of the Department of Transportation, if not the same as the person requesting the hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.

(4) If the appropriate authority finds, after hearing and by substantial evidence on the record, that the custody and towing of a vehicle was:

(a) Invalid, the appropriate authority shall order the immediate release of the vehicle to the owner or person with right of possession. If the vehicle is released under this paragraph, the person to whom the vehicle is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges on the vehicle, the authority responsible for taking the vehicle into custody and towing the vehicle shall reimburse the person for the charges. New storage costs on the vehicle will not start to accrue, however, until more than 24 hours after the time the vehicle is officially released to the person under this paragraph.

(b) Valid, the appropriate authority shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid by the party claiming the vehicle. If the vehicle has not yet been towed, the appropriate authority shall order that the vehicle be towed.

(5) A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the appropriate authority for the person's failure to appear.

(6) An appropriate authority is only required to provide one hearing under this section for each time the appropriate authority takes a vehicle into custody and tows the vehicle or proposes to do so.

(7) A hearing under this section may be used to determine the reasonableness of the charge for towing and storage of the vehicle. Towing and storage charges set by law, ordinance or rule or that comply with law, ordinance or rule are reasonable for purposes of this subsection.

(8) An authority shall provide a written statement of the results of a hearing held under this section to the person requesting the hearing.

(9) Hearings held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the presentation of evidence required for contested cases under ORS 183.450.

(10) The hearings officer at a hearing under this section may be an officer, official or employee of the appropriate authority but shall not have participated in any determination or investigation related to taking into custody and towing the vehicle that is the subject of the hearing.

(11) The determination of a hearings officer at a hearing under this section is final and is not subject to appeal. [1983 c.338 §425; 1985 c.16 §224; 1985 c.316 §5; 2009 c.371 §14]

819.200 Exemption from notice and hearing requirements for vehicle held in criminal investigation. A vehicle that is being held as part of any criminal investigation is not subject to any requirements under ORS 819.170 to 819.190 unless the criminal investigation relates to the theft of the vehicle. [1983 c.338 §426; 1993 c.385 §9]

(Sale or Disposal of Vehicle)

819.210 Sale or disposal of vehicle not reclaimed. (1) If a vehicle taken into custody under ORS 819.110 or 819.120 is not reclaimed within 30 days after it is taken into custody, the person that towed the vehicle shall either:

(a) Sell the vehicle and its contents at public auction in the manner provided in ORS 87.192 and 87.196; or

(b) Dispose of the vehicle in a manner provided by local ordinance.

(2) The contents of any vehicle sold under this section are subject to the same conditions of sale as the vehicle in which they are found. [1983 c.338 §427; 1995 c.758 §15; 2009 c.371 §15]

819.215 Disposal of vehicle appraised at $500 or less; notice; rules. (1) If an abandoned vehicle is appraised at a value of $500 or less by a person who holds a certificate issued under ORS 819.480, the person that towed the vehicle shall:

(a) Notify the registered owner and secured parties as provided in subsection (3) of this section;

(b) Photograph the vehicle;

(c) Notify the Department of Transportation that the vehicle will be disposed of; and

(d) Unless the vehicle is claimed by a person entitled to possession of it within 15 days of the date of notice under subsection (3) of this section, dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110.

(2) The authority that requests towing of an abandoned vehicle shall provide to the person that tows the vehicle, at the time of the tow or as soon as possible thereafter, a written statement that contains the name and address of the registered owner of the vehicle, as shown by records of the depart-

ment, and the names and addresses of any persons claiming interests in the vehicle, as shown by records of the department.

(3) Within 48 hours after the written statement is provided under subsection (2) of this section to a person that tows a vehicle, the person must give written notice to the persons whose names are furnished in the statement. The 48-hour period does not include Saturdays, Sundays or holidays. The notice shall state that a person that is entitled to possession of the vehicle has 15 days from the date the notice was mailed to claim the vehicle and that if the vehicle is not claimed, it will be disposed of as provided in this section.

(4) If the authority that requests towing of an abandoned vehicle does not provide to the person that tows the vehicle the written statement within 48 hours after the vehicle is towed, the person may dispose of the vehicle as provided in ORS 819.210.

(5) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights.

(6) The department shall adopt rules specifying the form in which notification to the department required by subsection (1) of this section shall be submitted and what information shall be conveyed to the department. The person that tows the vehicle may submit to the dismantler a copy of any notification submitted to the department under this section instead of submitting to the dismantler ownership or other title documents for the vehicle. [1993 c.326 §2; 1995 c.758 §16; 2005 c.654 §29; 2009 c.371 §16]

819.220 [1983 c.338 §428; 1985 c.16 §225; 1985 c.316 §6; 1991 c.873 §40; 1993 c.326 §7; 1993 c.751 §76; 1995 c.758 §17; 2005 c.654 §30; repealed by 2009 c.371 §18]

819.230 [1983 c.338 §810; 2007 c.630 §4; renumbered 819.480 in 2007]

819.240 [1983 c.338 §429; 1991 c.873 §41; 1993 c.233 §65; repealed by 2009 c.371 §18]

819.250 [1983 c.338 §430; 1985 c.16 §226; 1985 c.94 §1; repealed by 2009 c.371 §18]

819.260 [1983 c.338 §431; 1985 c.316 §7; repealed by 2009 c.371 §18]

819.270 [1983 c.338 §432; 1987 c.119 §7; repealed by 2009 c.371 §18]

VEHICLES WITH LOW APPRAISAL VALUE

819.280 Disposal of vehicle at request of person in lawful possession; rules. (1) A person may make a request to an authority described in ORS 819.140 (1)(b) or (c) to dispose of a vehicle that is on the private property of the person and that is appraised at a value of $500 or less, as determined by a holder of a certificate issued under ORS 819.480, if the person is in lawful possession of the vehicle. For the purposes of this subsection, a person need not have the certificate of title to be in lawful possession of the vehicle.

(2) If the authority requested to dispose of a vehicle under subsection (1) of this section chooses to dispose of the vehicle, the authority shall do all of the following:

(a) Photograph the vehicle.

(b) Verify that the person is in lawful possession of the vehicle.

(c) Provide notification to the person requesting the disposal and the Department of Transportation of all of the following:

(A) The name and address of the person requesting the disposal;

(B) The vehicle identification number;

(C) The appraised value of the vehicle;

(D) The appraiser's certificate number and signature; and

(E) The name and address of the authority disposing of the vehicle.

(d) Dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110.

(3) The authority disposing of the vehicle may charge the person requesting the disposal a fee to dispose of the vehicle.

(4) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights.

(5) The department shall adopt rules specifying the form in which notification required by subsection (2) of this section shall be submitted and what additional information shall be conveyed to the department.

(6) In lieu of submitting ownership or other title documents for the vehicle, the authority disposing of the vehicle may submit to the dismantler a copy of the notification provided to the department under subsection (2) of this section. [2005 c.738 §2; 2005 c.738 §2a]

STOLEN VEHICLES

819.300 Possession of a stolen vehicle; penalty. (1) A person commits the offense of possession of a stolen vehicle if the person possesses any vehicle which the person knows or has reason to believe has been stolen.

(2) The offense described in this section, possession of a stolen vehicle, is a Class C felony. [1983 c.338 §297]

819.310 Trafficking in stolen vehicles; penalty. (1) A person commits the offense of trafficking in stolen vehicles if the person receives or transfers possession of a vehicle which the person knows or has reason to

believe has been stolen with intent to obtain, transfer or sell title to the vehicle.

(2) The offense described in this section, trafficking in stolen vehicles, is a Class C felony. [1983 c.338 §298; 1985 c.16 §121]

VEHICLE IDENTIFICATION NUMBERS

819.400 Assignment of numbers. The Department of Transportation shall provide vehicle identification numbers for vehicles required to be registered in this state and components of such vehicles as the department determines necessary if the vehicles or components do not have vehicle identification numbers. The authority granted by this section is subject to the following:

(1) A vehicle identification number provided under this section shall be assigned by the department and permanently attached to the vehicle or component as prescribed by the department.

(2) A vehicle identification number provided under this section shall be furnished by the department.

(3) The vehicle identification number shall be affixed on an appropriate place on the vehicle or component by the department or, at the discretion of the department, by a police agency that has custody of the vehicle or component.

(4) The department shall not assign a vehicle identification number to a vehicle or component from which the identification number assigned to the vehicle or component has been removed, defaced, covered, altered or destroyed unless the vehicle or component has been:

(a) Held and inspected by a police agency under ORS 819.440; or

(b) Inspected by a specially qualified inspector or police officer for the purpose of locating the identification number and if the number is found it shall be checked with the list of stolen vehicles maintained by the National Crime Information Center. [1983 c.338 §293; 1985 c.253 §9]

819.410 Failure to obtain vehicle identification number for unnumbered vehicle; exception; penalty. (1) A person commits the offense of failure to obtain a vehicle identification number for an unnumbered vehicle if the person is the owner of a vehicle that has never carried a vehicle identification number and the person does not obtain a vehicle identification number for the vehicle in the manner provided under ORS 819.400.

(2) This section does not apply to vehicles that are exempt from registration under ORS 803.305 or from titling under ORS 803.030.

(3) The offense described in this section, failure to obtain a vehicle identification number for an unnumbered vehicle, is a Class D traffic violation. [1983 c.338 §294; 1985 c.253 §10; 1995 c.383 §97]

819.420 Failure to obtain vehicle identification number for vehicle with altered or removed number; penalty. (1) A person commits the offense of failure to obtain a vehicle identification number for a vehicle with an altered or removed number if the person has a vehicle or vehicle component returned under ORS 819.440 and the person does not obtain a vehicle identification number for the vehicle or component in the manner provided under ORS 819.400.

(2) The offense described in this section, failure to obtain a vehicle identification number for a vehicle with an altered or removed number, is a Class C misdemeanor. [1983 c.338 §295; 1985 c.393 §7]

819.430 Trafficking in vehicles with destroyed or altered identification numbers; penalty. (1) A person commits the offense of trafficking in vehicles with destroyed or altered identification numbers if the person knowingly buys, sells, receives, disposes of, conceals or has in the person's possession any vehicle or component from which the vehicle identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle or component.

(2) The offense described in this section, trafficking in vehicles with destroyed or altered identification numbers, is a Class A misdemeanor. [1983 c.338 §296]

819.440 Police seizure of vehicle without identification number; inspection; disposition of vehicle; disposition of moneys from sale. When a police officer discovers a vehicle or component, including a transmission, engine or other severable portion of a vehicle which possesses or did possess an identification number, from which the vehicle identification number assigned to the vehicle or component has been removed, defaced, covered, altered or destroyed the police officer may seize and hold it for identification and disposal as provided under the following:

(1) The police agency having custody of the property shall have a specially qualified inspector or police officer inspect the property for the purpose of locating the identification number.

(2) If the identification number is found it shall be checked with the list of stolen vehicles maintained by the National Crime Information Center.

(3) If the identification number is not found the police agency shall apply to the Department of Transportation for renumbering under ORS 819.400.

(4) When the property is not listed as stolen and the identification number is established, the property shall be returned to the person from whom it was seized if:

(a) The person can establish that the person is the owner of the property;

(b) The person executes a good and valid surety bond in an amount at least equal to the market value of the property and conditioned upon return of the property to the owner, if one can be established; or

(c) The person has a certificate as a vehicle dealer issued under ORS 822.020 or a dismantler certificate issued under ORS 822.110.

(5) If the person to whom the property was returned does not establish the person's ownership of the property, the police agency shall make reasonable efforts to determine the names and addresses of the owner and all persons of record having an interest in the property. If the police agency is able to determine the names and addresses of the owner and such other interested persons it shall immediately notify the owner by registered or certified mail of the disposition of the property.

(6) If the identification number of property seized is not established or if the property is reported as stolen the police agency having custody of the property shall do all of the following:

(a) After making reasonable efforts to ascertain the names and addresses of the owner and all persons of record having an interest in the property, notify the person from whom the property was seized, and the owner and such other persons if they can be ascertained, of their right to respond within 60 days from the issuance of the notice through court action for the return of the seized property.

(b) Advertise, as required by this subsection, the taking of the property, the description thereof and a statement of the rights of an owner or other persons of record having an interest in the property to respond through court action for the return of the seized property.

(c) Place the advertisement in a daily newspaper published in the city or county where the property was taken, or if a daily newspaper is not published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two consecutive weeks and by handbills posted in three public places near the place of seizure.

(7) If court action is not initiated within 60 days from the issuance of notice the property shall be sold at public auction by the sheriff or other local police agency having custody of the property.

(8) Property seized and held by or at the direction of the Department of State Police shall be delivered to the sheriff of the county in which the vehicle was located at the time it was taken into custody for sale under this subsection.

(9) The sheriff or other local police agency, after deducting the expense of keeping the property and the cost of sale, shall do the following:

(a) Pay all the security interests, according to their priorities which are established by intervention or otherwise at such hearing or in other proceeding brought for that purpose.

(b) Pay the balance of the proceeds into the general fund of the unit of government employing the officers of the selling police agency. [1983 c.338 §413; 1993 c.751 §77; 1995 c.79 §380; 2005 c.654 §31]

VEHICLE APPRAISERS

819.480 Vehicle appraiser certificate; rules. (1) A person who is issued a vehicle appraiser certificate by the Department of Transportation under this section is qualified to appraise any vehicle, including vehicles for sale under ORS 819.210 and 819.215.

(2) The department shall establish rules to provide for issuance of vehicle appraiser certificates under this section. Rules adopted by the department under this section shall provide for all of the following:

(a) A method of ascertaining the qualifications and competence of individuals to conduct vehicle appraisals in accordance with the rules of the department and generally accepted methods of appraisal.

(b) A system for issuance of vehicle appraiser certificates to persons who qualify under the rules of the department.

(c) Procedures and grounds for revocation or suspension of vehicle appraiser certificates issued under this section if the department determines the person holding the certificate has violated the rules adopted by the department.

(d) A procedure for renewal of vehicle appraiser certificates issued under this section.

(3) The department may establish rules to adopt educational requirements for issuance or renewal of vehicle appraiser certificates.

(4) Vehicle appraiser certificates issued under this section are subject to the following:

(a) A certificate shall expire three years from the date of issuance unless renewed according to the rules of the department.

(b) The department shall not issue a vehicle appraiser certificate to a person until the person has paid the fee for issuance of a vehicle appraiser certificate under ORS 822.700.

(c) The department shall not renew a vehicle appraiser certificate issued under this section until the holder has paid the fee for renewal of a vehicle appraiser certificate under ORS 822.700. [Formerly 819.230; 2009 c.371 §17]

819.482 Acting as vehicle appraiser without certificate; penalty. (1) A person commits the offense of acting as a vehicle appraiser without a certificate if the person does not hold a vehicle appraiser certificate issued under ORS 819.480 and the person, for consideration, issues an opinion as to the value of a vehicle.

(2) This section does not apply to:

(a) A person who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040 and who appraises vehicles in the operation of the vehicle dealer's business;

(b) A person from another jurisdiction who holds a vehicle appraiser certificate requiring qualifications substantially similar to qualifications required for the certification of a vehicle appraiser in this state;

(c) An insurance adjuster authorized to do business under ORS 744.515 or 744.521; or

(d) A person licensed or certified to appraise real estate under ORS 674.310 and who appraises the value of manufactured structures.

(3) The offense described in this section, acting as a vehicle appraiser without a certificate, is a Class A violation. [2007 c.630 §2; 2019 c.151 §42]

Chapter 820

2019 EDITION

Special Provisions for Certain Vehicles

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WORKER TRANSPORT AND OTHER VEHICLES

820.010 Vehicles subject to safety regulation; Department of Consumer and Business Services jurisdiction; rules. (1) A motor vehicle is subject to safety regulation under ORS 820.030 to 820.070, if the vehicle is furnished by an employer and is used to transport one or more workers to and from their places of employment. All of the following apply to this subsection:

(a) The employer must be an individual who employs or uses two or more workers.

(b) The workers employed or transported may be any individuals who are employed for any period in any work for which the workers are compensated, whether full- or part-time.

(c) The place of employment to and from which the vehicle is used to transport workers must be a location where one or more workers are actually performing the labor incident to their employment.

(d) Vehicles may include passenger automobiles operated by or on behalf of employers.

(2) If vehicles described in this section are worker transport buses, the vehicles may be subject to additional regulation for the use of bus safety lights under ORS 811.520 and 816.300 in addition to safety measures under ORS 811.155.

(3) The Department of Consumer and Business Services has concurrent jurisdiction with the Department of Transportation in the adoption, under ORS 820.030, of rules relating to vehicles described in this section and in the enforcement of those rules under ORS 820.040 and 820.050 as applied to vehicles described in this section.

(4) Vehicles described in this section are in addition to any vehicles subjected to regulation under ORS 820.020. [1983 c.338 §738; 1985 c.16 §355; 2015 c.138 §40]

820.020 Vehicles other than worker transport vehicles that are subject to safety regulation. Vehicles used in transportation of persons for hire by a nonprofit entity are subject to safety regulation under ORS 820.030 to 820.070 in addition to worker transport vehicles subjected to such regulation under ORS 820.010. [1983 c.338 §739; 1989 c.992 §23; 2015 c.283 §9]

820.030 Safety code; rules; standards; tentative draft; hearings; notice; amendment. The Department of Transportation shall make and enforce reasonable rules relating to vehicles described under ORS 820.010 and 820.020. Authority for enforcement of the rules is established under ORS 820.040 to 820.070. The rules shall be embodied in a safety code and the safety code is subject to all of the following:

(1) The safety code shall establish minimum standards for all of the following aspects of the safety and operation of vehicles described under ORS 820.010 and 820.020:

(a) For the construction and mechanical equipment of a motor vehicle, including its coupling devices, lighting devices and reflectors, motor exhaust system, rear-vision mirrors, service and parking brakes, steering mechanism, tires, warning and signaling devices and windshield wipers.

(b) For the operation of a motor vehicle, including driving rules, loading and carrying freight and passengers, maximum daily hours of service by drivers, minimum age and skill of drivers, physical condition of drivers, refueling, road warning devices and the transportation of gasoline and explosives.

(c) For the safety of passengers in a motor vehicle, including emergency exits, fire extinguishers, first aid kits, means of ingress and egress, side walls, and a tailgate or other means of retaining freight and passengers within the motor vehicle.

(2) Before formulating a draft of the safety code, the department shall invite the participation of interested state agencies and representative business, farm, labor and safety organizations. These groups may make suggestions relating to the minimum standards to be embodied in the safety code. The department shall consider the suggestions and prepare a tentative draft of the safety code.

(3) The following apply to hearings on a tentative draft under this section:

(a) Upon the fixing of dates and places for hearings to consider the tentative draft, the department:

(A) Shall cause notices of the hearings to be published in one or more daily newspapers of general circulation published and circulated in the City of Portland and in such other newspapers of general circulation in this state as will give wide notices of the hearings; and

(B) Shall cause copies of the tentative draft to be widely distributed among representative business, farm, labor and safety organizations and among interested individuals.

(b) Any individuals or groups may participate in the hearings, and submit their comments and suggestions relating to the minimum standards embodied in the tentative draft.

(4) Notice of the adoption and issuance of the safety code shall be given in the same manner as notices of the hearings.

(5) The department shall cause copies of the safety code and amendments thereto to be widely distributed among interested state agencies, among representative business, farm, labor and safety organizations and among interested individuals.

(6) The department may amend the safety code at any time upon its own motion or upon complaint by any individual or group, in the same manner as the safety code was prepared, adopted and distributed under this section.

(7) No defect or inaccuracy in a notice or in the publication thereof shall invalidate the safety code or any amendment thereto adopted and issued by the department. [1983 c.338 §740; 1985 c.16 §356]

820.040 Inspection of vehicles. (1) The Department of Transportation, in enforcing the safety code established under ORS 820.030, may inspect any vehicle that is described under ORS 820.010 or 820.020.

(2) Upon request, the Superintendent of State Police shall assist the department in these inspections. [1983 c.338 §741]

820.050 Orders regarding noncomplying vehicles or drivers. (1) Whenever the Department of Transportation finds that a vehicle described under ORS 820.010 or 820.020 violates any provision of the safety code adopted under ORS 820.030 or an amendment thereto, the department shall make, enter and serve upon the owner of the vehicle any order necessary to protect the safety of persons transported in the vehicle.

(2) The department may direct in an order, as a condition to the continued use of the motor vehicle for authorized purposes, that such additions, repairs, improvements or changes be made and such safety devices and safeguards be furnished and used as are reasonably required to satisfy the requirements of the safety code, in the manner and within the time specified in the order.

(3) The department may also issue to the owner of the vehicle an order to require that any driver of the motor vehicle satisfy the minimum standards for a driver under the safety code established under ORS 820.030.

(4) Any person aggrieved by an order of the department under this section may appeal under the provisions of ORS 183.480.

(5) Violation of an order issued under this section is subject to penalty as provided under ORS 820.060. [1983 c.338 §742]

820.060 Safety requirement; owner violation of worker transport vehicle safety code; penalty. (1) The following vehicles shall be maintained in a safe condition and operated in a safe manner at all times:

(a) Vehicles described in ORS 820.010. This paragraph applies whether or not the vehicle is used upon a public highway.

(b) Vehicles described in ORS 820.020.

(2) A person commits the offense of owner violation of the worker transport vehicle safety code if the person is the owner of a vehicle described under ORS 820.010 or 820.020 and the person does any of the following:

(a) Violates or willfully fails to comply with an order issued under ORS 820.050.

(b) Violates any provision of the safety code established under ORS 820.030, or any amendment thereto.

(3) The offense described in this section, owner violation of worker transport vehicle safety code, is a Class B traffic violation. [1983 c.338 §743; 1985 c.393 §50]

820.070 Driver violation of worker transport vehicle safety code; penalty. (1) A person commits the offense of driver violation of worker transport vehicle safety code if the person, at any time, operates a vehicle described under ORS 820.010 or 820.020 in a manner that violates any provision of the safety code established under ORS 820.030 or any amendment thereto.

(2) The offense described in this section, driver violation of worker transport vehicle safety code, is a Class B traffic violation. [1983 c.338 §744; 1985 c.393 §51]

SCHOOL VEHICLES

820.100 Adoption of safety standards for construction and equipment of school vehicles. (1) The State Board of Education shall adopt and enforce such reasonable standards relating to school bus and school activity vehicle construction and school bus and school activity vehicle equipment as the board deems necessary for safe and economical operation, except that the board may not authorize the use of school buses manufactured before April 1, 1977.

(2) The governing board of a public university listed in ORS 352.002 may adopt and enforce separate standards of the type described under this section for school buses and school activity vehicles that are under the governing board's jurisdiction, except that the governing board may not authorize the use of school buses manufactured before April 1, 1977.

(3) The State Board of Education shall adopt and enforce standards for school bus stop arms authorized by ORS 820.105.

(4) Standards adopted under this section:

(a) Must be consistent with requirements established by statute or by rule adopted un-

der statutory authority that relate to the same subject.

(b) Shall be consistent with minimum uniform national standards, if such standards exist.

(c) May include different requirements for different classes or types of school buses or school activity vehicles.

(d) May include any exemptions determined appropriate under ORS 820.150. [1983 c.338 §747; 1985 c.16 §358; 1985 c.420 §12; 1987 c.654 §6; 1989 c.491 §71; 2007 c.632 §1; 2013 c.768 §150; 2015 c.767 §211]

820.105 School bus stop arms. Notwithstanding any other provision of law, school buses may be equipped with an octagonal shaped mechanical stop arm that indicates when the bus is stopped to load or unload passengers on a roadway. The stop arms authorized by this section shall be equipped with two alternately flashing red bus safety lights showing both to the front and rear of the bus. [1987 c.654 §5]

Note: 820.105 was added to and made a part of ORS chapter 820 but was not added to any smaller series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

820.110 Rules and standards for driver qualification and training and accident reports. (1) The State Board of Education shall adopt and enforce rules to establish requirements of operation, qualifications or special training of drivers and special accident reports for school buses and school activity vehicles.

(2) The governing board of a public university listed in ORS 352.002 may adopt and enforce separate standards of the type described under this section for school buses and school activity vehicles that are under its jurisdiction.

(3) The rules and standards adopted under this section:

(a) Are subject to ORS 820.190 and 820.200 and to any other statute or regulation relating to the operation of vehicles, qualifications of drivers and accident reports.

(b) Must be consistent with requirements established by statute or by rule adopted under statutory authority that relate to the same subject.

(c) May include different requirements for different classes or types of school buses or school activity vehicles.

(d) May include any exemptions determined appropriate under ORS 820.150.

(4) If the Department of Transportation suspends, cancels or revokes any driving privileges of a person who holds a school bus endorsement under ORS 807.035 (5), the Department of Transportation shall notify the Department of Education of the suspension, cancellation or revocation. [1983 c.338 §748; 1985 c.16 §359; 1985 c.420 §13; 1989 c.491 §72; 2007 c.120 §1; 2013 c.768 §151; 2015 c.767 §212]

820.120 Rules and standards for school vehicle inspection. (1) The State Board of Education shall adopt and enforce rules to provide for the inspection of school buses and school activity vehicles to assure that the vehicles are in compliance with requirements under standards and rules established under ORS 820.100 and 820.110, as applicable, and that the vehicles are safe for operation. The rules may include intervals of inspections.

(2) The governing board of a public university listed in ORS 352.002 may adopt and enforce separate standards of the type described under this section for school buses and school activity vehicles that are under its jurisdiction.

(3) The rules and standards adopted under this section:

(a) Are subject to any other statute or regulation relating to the safety of vehicles for operation and the inspection of vehicles.

(b) May include different requirements for different classes or types of school buses or school activity vehicles.

(c) May include any exemptions determined appropriate under ORS 820.150. [1983 c.338 §749; 1985 c.420 §14; 1989 c.491 §73; 2013 c.768 §152; 2015 c.767 §213]

820.130 School bus registration. The Department of Transportation shall issue registration for a school bus when notified that the vehicle conforms to applicable standards and rules under ORS 820.100 to 820.120 and that the vehicle is safe for operation on the highways. Notification required by this section shall be from:

(1) The State Board of Education or its authorized representative regarding vehicles under its regulatory authority.

(2) The governing board of a public university listed in ORS 352.002 or the authorized representative of the governing board regarding vehicles under the governing board's jurisdiction. [1983 c.338 §752; 1985 c.420 §17; 1999 c.39 §11; 2013 c.768 §153; 2015 c.767 §214]

820.140 Revocation of registration. The Department of Transportation may revoke the registration of any school bus if the department determines that the vehicle:

(1) Is not maintained and operated in accordance with standards and rules applicable to the vehicle under ORS 820.100 to 820.120; or

(2) Is not safe for operation over or is not safely operated over the public highways. [1983 c.338 §753; 1985 c.16 §360; 1985 c.420 §18; 2013 c.768 §153a]

820.150 Rules and standards for exemption of certain vehicles from Oregon Vehicle Code. (1) The State Board of Education, by rule, may establish classes or types of vehicles that are not considered school buses or school activity vehicles for purposes of the Oregon Vehicle Code or classes of school buses or school activity vehicles that are not subject to regulation under the Oregon Vehicle Code either partially or completely.

(2) The governing board of a public university listed in ORS 352.002 may adopt separate standards of the type described under this section for vehicles that are under its jurisdiction.

(3) Rules and standards adopted under this section are subject to the following:

(a) Any exemption, either partial or total, established under this section may be based upon passenger capacity, on limited use or on any other basis the State Board of Education or the governing board considers appropriate.

(b) An exemption, either partial or total, may not be established under this section for any vehicle that is marked with or displays the words "school bus."

(c) Any vehicle determined not to be a school bus under this section is not a school bus within the definition established under ORS 801.460. Partial exemptions established for vehicles under this section may include removal of the vehicle from any provisions relating to school buses under the vehicle code.

(d) Any vehicle determined not to be a school activity vehicle under this section is not a school activity vehicle within the definition established under ORS 801.455. Partial exemptions established for vehicles under this section may include removal of the vehicle from any provisions relating to school activity vehicles under the vehicle code.

(e) In considering any rules and standards under this section, the boards shall consider the need to ensure student safety. [1985 c.420 §16; 1989 c.491 §74; 1995 c.79 §381; 1999 c.39 §12; 2013 c.768 §154; 2015 c.767 §215]

820.160 Illegal display of school bus markings; penalty. (1) A person commits the offense of illegal display of school bus markings if the person displays the words "School Bus" on any vehicle unless the vehicle:

(a) Is used in transporting school children to or from school or an authorized school activity or function; and

(b) Complies with the applicable requirements under standards and rules established under ORS 820.100 to 820.120.

(2) The offense described in this section, illegal display of school bus markings, is a Class B traffic violation. [1983 c.338 §750; 1985 c.393 §52; 1995 c.383 §98; 2013 c.768 §154a]

820.170 Improper school bus markings; penalty. (1) A person commits the offense of improper school bus markings if the person displays the words "School Bus" on a vehicle without such words being marked in the front and in the rear in letters eight inches high or higher and of proportionate width.

(2) The offense described in this section, improper school bus markings, is a Class D traffic violation. [1983 c.338 §751; 1985 c.393 §53; 1995 c.383 §99]

820.180 Unsafe school vehicle operation; penalty. (1) A person commits the offense of unsafe school vehicle operation if:

(a) The person operates or owns and causes or permits to be operated a school bus or school activity vehicle in a manner that is in violation of any standards and rules applicable to the vehicle that are adopted under ORS 820.100 to 820.120;

(b) The person owns or leases and causes or permits to be operated for school purposes a school bus or school activity vehicle containing more passengers than the vehicle is designed to transport; or

(c) The person operates or owns and causes or permits to be operated a school bus manufactured before April 1, 1977.

(2) A person is not in violation of subsection (1)(b) of this section if a bus or vehicle contains more passengers than it is designed to transport due to unforeseen or unusual circumstances.

(3) The offense described in this section, unsafe school vehicle operation, is a Class B traffic violation. [1985 c.420 §4; 1991 c.392 §1; 1995 c.383 §100; 2007 c.632 §2; 2013 c.768 §154b]

820.190 Minor operating school vehicle; penalty. (1) A person commits the offense of being a minor operating a school vehicle if the person is under 18 years of age and the person drives any of the following while it is in use for the transportation of pupils to or from school or an authorized school activity or function:

(a) A school bus.

(b) A school activity vehicle.

(c) A vehicle owned by a public or governmental agency.

(d) A privately owned vehicle that is operated for compensation that is a vehicle other than a vehicle commonly known and used as a private passenger vehicle and not operated for compensation except in the transportation of students to or from school.

(2) The offense described in this section, minor operating a school vehicle, is a Class B traffic violation. [1983 c.338 §754; 1985 c.420 §19]

MISCELLANEOUS PROVISIONS

820.200 Minor operating public passenger vehicle; penalty. (1) A person commits the offense of being a minor operating a public passenger vehicle if the person is under 21 years of age and the person drives a motor vehicle while it is in use as a public passenger-carrying vehicle.

(2) The offense described in this section, minor operating a public passenger vehicle, is a Class B traffic violation. [1983 c.338 §755]

820.210 Registration exemptions for golf carts and similar vehicles. (1) Golf carts operated in accordance with an ordinance adopted under ORS 810.070 are exempt from registration requirements under the vehicle code.

(2) Golf carts or substantially similar vehicles that are operated by persons with disabilities at not more than 15 miles an hour are exempt from registration requirements under the vehicle code.

(3) Notwithstanding any provision of the vehicle code relating to vehicle equipment and condition, upon designation of a portion of a highway becoming effective under an ordinance adopted under ORS 810.070, it shall be lawful to drive golf carts on highways or portions thereof so designated in accordance with the rules and regulations prescribed by the local authority. [1983 c.338 §780; 2007 c.70 §349]

820.220 Operation of low-speed vehicle in prohibited area; penalty. (1) A person commits the offense of operation of a low-speed vehicle in a prohibited area if the person is a person with a disability and the person operates a golf cart or substantially similar motor vehicle on any highway with a speed designation greater than 25 miles per hour.

(2) The offense described in this section, operation of low-speed vehicle in prohibited area, is a Class D traffic violation. [1983 c.338 §781; 2007 c.70 §350]

AMBULANCES AND EMERGENCY VEHICLES

(Application of Traffic Laws)

820.300 Exemptions from traffic laws. (1) Subject to conditions, limitations, prohibitions and penalties established for emergency vehicle and ambulance drivers under ORS 820.320, the driver of an emergency vehicle or ambulance may do any of the following:

(a) Park or stand in disregard of a statute, regulation or ordinance prohibiting that parking or standing.

(b) Proceed past a red signal or stop sign.

(c) Exceed the designated speed limits.

(d) Disregard regulations governing direction of movement or turning in specified directions.

(e) Proceed past the flashing bus safety lights without violating ORS 811.155 if the driver first stops the vehicle and then proceeds only when the driver:

(A) Determines that no passengers of the bus remain on the roadway; and

(B) Proceeds with caution.

(2) The provisions of this section:

(a) Do not relieve the driver of an emergency vehicle or ambulance from the duty to drive with due regard for the safety of all other persons.

(b) Are not a defense to the driver of an emergency vehicle or ambulance in an action brought for criminal negligence or reckless conduct.

(c) Except as specifically provided in this section, do not relieve the driver of an emergency vehicle or ambulance from the duty to comply with ORS 811.155. [1983 c.338 §757; 1985 c.16 §362; 1995 c.209 §5]

820.310 [1983 c.338 §758; 1985 c.16 §363; 1985 c.278 §2; repealed by 1995 c.209 §7]

820.320 Illegal operation of emergency vehicle or ambulance; penalty. (1) A person commits the offense of illegal operation of an emergency vehicle or ambulance if the person is the driver of an emergency vehicle or ambulance and the person violates any of the following:

(a) The driver of an emergency vehicle or ambulance may only exercise privileges granted under ORS 820.300 when responding to an emergency call or when responding to, but not upon returning from, an emergency. The driver of an emergency vehicle may exercise privileges granted under ORS 820.300 when in pursuit of an actual or suspected violator of the law.

(b) The driver of an emergency vehicle or ambulance must use a visual signal with appropriate warning lights when the driver is exercising privileges granted under ORS 820.300.

(c) In addition to any required visual signal, the driver of an emergency vehicle or ambulance must make use of an audible signal meeting the requirements under ORS 820.370 when the driver is proceeding past a stop light or stop sign under privileges granted by ORS 820.300 (1)(b).

(d) A driver of an emergency vehicle or ambulance who is exercising privileges granted under ORS 820.300 by parking or standing an emergency vehicle in disregard of a regulation or ordinance prohibiting that parking, stopping or standing, shall not use the audible signal.

(e) In exercising the privileges under ORS 820.300 (1)(e) relating to buses and bus safety lights, the driver of an emergency vehicle or ambulance must first stop the vehicle and then must:

(A) Determine that no passengers of the bus remain on the roadway; and

(B) Proceed with caution.

(f) In proceeding past any stop light or stop sign under the privileges granted by ORS 820.300, the driver of an emergency vehicle or ambulance must slow down as may be necessary for safe operation.

(g) The driver of an emergency vehicle or ambulance must not exceed any designated speed limit to an extent which endangers persons or property.

(2) The driver of an emergency vehicle that is operated as an emergency police vehicle is not required to use either visual signal or the audible signal as described in this section in order to exercise the privileges granted in ORS 820.300 when it reasonably appears to the driver that the use of either or both would prevent or hamper the apprehension or detection of a violator of a statute, ordinance or regulation.

(3) The offense described in this section, illegal operation of an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §759; 1985 c.16 §364; 1995 c.209 §1]

(Records)

820.330 Failure to make, maintain and make available ambulance records; exemption; penalty. (1) A person commits the offense of failure to make, maintain and make available ambulance records if the person violates any of the following:

(a) When an ambulance is used in an emergency situation the driver of the ambulance, within 24 hours after such use, shall cause to be made and must sign a record that complies with ORS 820.340.

(b) The owner of any ambulance shall cause any record required by this section to be preserved for not less than seven years.

(c) Upon demand of any district attorney, the custodian of any record required under this section shall make the record available to that district attorney for the purpose of investigating any alleged violation of ORS 820.320 by a driver of an ambulance.

(d) Upon demand of an authorized representative of the Oregon Health Authority, the custodian of any record required under this section shall make the record available to the authorized representative who wishes to inspect the record for purposes of ascertaining identities of emergency medical services providers as defined in ORS 682.025.

(2) This section does not apply to any person or ambulance exempted by ORS 682.035 or 682.079 from regulation by the authority.

(3) Authority of political subdivisions to regulate records of ambulances is limited under ORS 682.031.

(4) The offense described in this section, failure to make, maintain and make available ambulance records, is a Class B traffic violation. [1983 c.338 §760; 1985 c.393 §54; 1995 c.209 §6; 2009 c.595 §1148; 2011 c.703 §48]

820.340 Contents of ambulance records. Records required under ORS 820.330 must contain all of the following:

(1) The time of day and the date when ambulance service was requested.

(2) The name of the ambulance driver and the name of the emergency medical services providers, as defined in ORS 682.025, who provided the service, one of whom may be the driver.

(3) The name and address of any individual to be transported.

(4) Any reason to believe the life of the individual is jeopardized by delay of the ambulance.

(5) The location from which the individual is to be transported.

(6) The name and address of any person who requested the ambulance service.

(7) The time of day when service for the individual is begun and ended. [1983 c.338 §761; 2011 c.703 §49]

(Equipment)

820.350 Ambulance warning lights. (1) Subject to any other law or rule pursuant thereto relating to lighting of a vehicle, the Department of Transportation may prescribe required warning lights for ambulances. The requirements established under this section may include, but are not limited to, numbers required, placement, visibility, rate of flash if applicable and inside indicators.

(2) Enforcement of the requirements established under this section is provided under ORS 820.360. [1983 c.338 §762; 1985 c.79 §1; 1989 c.782 §38]

820.360 Illegal ambulance lighting equipment; exemption; penalty. (1) A person commits the offense of illegal ambulance lighting equipment if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway an ambulance that does not contain and is not at all times equipped with warning lights in proper condition and adjustment as required under ORS 820.350.

(2) This section does not apply to any person or ambulance exempted by ORS 682.035 or 682.079 from regulation by the Oregon Health Authority.

(3) Authority of political subdivisions to regulate warning lights on ambulances is limited under ORS 682.031.

(4) The offense described under this section, illegal ambulance lighting equipment, is a Class C traffic violation. [1983 c.338 §763; 1995 c.383 §30; 2009 c.595 §1149]

820.370 Ambulance or emergency vehicle sirens. (1) Subject to any other law or rule pursuant thereto relating to the noise of a vehicle, the Department of Transportation may prescribe required sirens or other audible signals for ambulances and emergency vehicles. The requirements established under this section may include, but are not limited to, numbers required, placement, audibility and inside indicators.

(2) Enforcement of the requirements established under this section is provided under ORS 820.380. [1983 c.338 §764; 1985 c.16 §365; 1985 c.79 §2; 1989 c.782 §39]

820.380 Illegal ambulance or emergency vehicle sirens; exemption; penalty. (1) A person commits the offense of illegal ambulance or emergency vehicle sirens if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway an ambulance or emergency vehicle that does not contain and is not at all times equipped with sirens or other audible signals in proper conditions and adjustment as required under ORS 820.370.

(2) This section does not apply to any ambulance or person operating or owning an ambulance if the ambulance or person is exempted by ORS 682.035 or 682.079 from regulation by the Oregon Health Authority.

(3) Authority of political subdivisions to regulate sirens and other audible signals is limited under ORS 682.031.

(4) The offense described under this section, illegal ambulance or emergency vehicle sirens, is a Class C traffic violation. [1983 c.338 §765; 1995 c.209 §2; 1995 c.383 §31; 2009 c.595 §1150]

IMPLEMENTS OF HUSBANDRY

820.400 Unlawful operation of implement of husbandry; penalty. (1) A person commits the offense of unlawful operation of an implement of husbandry if the person operates an implement of husbandry in violation of any of the following:

(a) Such vehicle must be driven as closely as is practicable to the right-hand edge of the roadbed, including the shoulders, if any.

(b) Such vehicle, if the movement of the vehicle occurs during the hours of darkness, must be equipped and operating two headlights, clearance lights and reflectors marking the overall width as far as practical and visible from the front, rear and sides and a taillight.

(c) An image display device may not be operated in an implement of husbandry at any time while the implement of husbandry is being operated on a highway. As used in this paragraph, "image display device" has the meaning given that term in ORS 815.240.

(d) Such vehicle must display, when driven, a slow-moving vehicle emblem described in ORS 815.060.

(2) The offense described in this section, unlawful operation of an implement of husbandry, is a Class D traffic violation. [1983 c.338 §779; 1985 c.69 §7; 1985 c.393 §55; 1995 c.383 §101; 2005 c.572 §3]

820.500 [1983 c.338 §782; 1985 c.16 §378; 1985 c.416 §7; 1989 c.148 §19; 1991 c.459 §438k; 1991 c.873 §42; 1993 c.233 §66; 1997 c.577 §48; 1999 c.383 §1; 2001 c.675 §14; repealed by 2003 c.655 §143]

820.510 [1985 c.16 §381; 1993 c.233 §67; 1993 c.696 §10; 1999 c.383 §2; 2003 c.189 §1; repealed by 2003 c.655 §143]

MANUFACTURED STRUCTURES

820.520 Travel or special use trailer assessed as manufactured structure; effect of ceasing to be used as permanent home. When a travel trailer or special use trailer ceases to be assessed under the ad valorem tax laws of this state as a manufactured structure under ORS 308.880, the trailer must be registered and licensed as a travel trailer or special use trailer. [1983 c.338 §783; 1985 c.16 §379; 1993 c.18 §171; 1993 c.696 §11; 2003 c.655 §122]

820.525 [1999 c.383 §4; 2003 c.189 §2; repealed by 2003 c.655 §143]

820.530 [1983 c.338 §784; 1985 c.16 §382; 1985 c.401 §16; 1993 c.233 §68; 1995 c.383 §102; repealed by 2003 c.655 §143]

820.540 [1983 c.338 §785; 1985 c.16 §383; 1995 c.383 §103; repealed by 2003 c.655 §143]

820.550 [1983 c.338 §786; 1995 c.383 §104; repealed by 2003 c.655 §143]

820.560 [1983 c.338 §787; 1985 c.16 §384; 1985 c.416 §8; 1989 c.409 §1; 1993 c.551 §4; 1993 c.751 §78; 1999 c.359 §4; repealed by 2003 c.655 §143]

820.570 Violating trip permit requirements for manufactured structures; penalty. (1) A person commits the offense of violating trip permit requirements for manufactured structures if the person does any of the following:

(a) Moves a manufactured structure on a highway of this state without a trip permit for the movement. This paragraph does not apply to movements of manufactured structures by vehicle transporters as permitted under ORS 822.310.

(b) Fails to prominently display a trip permit on the rear of a manufactured structure being moved when a trip permit is required for the move.

(c) Moves a manufactured structure when a trip permit is required without completing the permit prior to the movement.

(2) The offense described under this section, violating trip permit requirements for manufactured structures, is a Class B traffic violation. [1983 c.338 §788; 1985 c.16 §385; 1985 c.416 §9; 2003 c.655 §123]

820.580 [1983 c.338 §789; 1985 c.16 §386; repealed by 2003 c.655 §143]

820.585 [2001 c.675 §1; repealed by 2003 c.655 §143]

820.587 [2001 c.675 §2; repealed by 2003 c.655 §143]

820.589 [2001 c.675 §3; repealed by 2003 c.655 §143]

820.591 [2001 c.675 §4; repealed by 2003 c.655 §143]

820.593 [2001 c.675 §5; repealed by 2003 c.655 §143]

Chapter 821

2019 EDITION

Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles

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OFF-ROAD VEHICLES

821.010 Exemptions from equipment requirements for off-road vehicles. (1) Any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain is exempt from the sections governing vehicle equipment described in this section if the vehicle:

(a) Is operated in an area described under ORS 821.020; and

(b) Complies with the equipment requirements under ORS 821.040.

(2) The exemption under this section is an exemption from the prohibitions under all of the following paragraphs:

(a) Nonstandard lighting equipment under ORS 816.300.

(b) Required lighting equipment under ORS 816.330.

(c) Prohibited lighting equipment under ORS 816.360.

(d) Violation of state equipment administrative rules under ORS 815.100.

(e) Slow-moving vehicle emblem requirements under ORS 815.115.

(f) Mudguard and fender requirements under ORS 815.185.

(g) Visible emission limits under ORS 815.200.

(h) Requirements for window materials under ORS 815.040.

(i) Obstruction of windows under ORS 815.220.

(j) Limits on sound equipment under ORS 815.225.

(k) Sound equipment requirements under ORS 815.230.

(L) Rearview mirror requirements under ORS 815.235.

(m) Limits on image display device use under ORS 815.240.

(n) Exhaust system requirements under ORS 815.250.

(o) Speedometer requirements under ORS 815.255.

(p) Disposal system requirements under ORS 815.260.

(q) Helmet requirements under ORS 814.260 to 814.280, except that a person is required to meet the helmet requirements described in ORS 821.202 and 821.203. [1983 c.338 §710; 1999 c.565 §3; 2005 c.572 §4; 2017 c.453 §2a]

821.020 Applicability of off-road vehicle exemption from general equipment requirements. (1) Except as provided in subsection (2) of this section, the exemption from equipment requirements for off-road vehicles under ORS 821.010 applies to each of the following:

(a) Lands that are open to the public.

(b) Roads, other than two-lane gravel roads, that are open to the public.

(c) Paved parking lots adjacent to or on designated off-road vehicle areas, trails and routes that are open to the public.

(d) Local two-lane gravel roads that are open to the public and that are designated by the road authority with jurisdiction over the road as open to off-road vehicles that are described in ORS 821.010.

(e) All-terrain vehicle highway access routes that are designated by the Oregon Transportation Commission as open to all-terrain vehicles.

(2) The exemption from equipment requirements does not apply to areas posted as closed to off-road vehicles. [1983 c.338 §711; 1999 c.565 §4; 2017 c.453 §3]

821.030 Equipment standards for off-road vehicles. For purposes of the equipment requirements for off-road vehicles under ORS 821.040, the following agencies may establish the described equipment requirements for vehicles:

(1) The Director of Transportation may adopt rules to do the following:

(a) Establish the type of brakes an off-road vehicle must be equipped with to be in compliance with ORS 821.040.

(b) Establish the type of flag that must be used under ORS 821.040 on an off-road vehicle when it is operated on sand.

(c) Require other safety equipment that must be used by off-road vehicles in order to comply with ORS 821.040.

(2) The Environmental Quality Commission may adopt standards for noise emissions of mufflers that are required for off-road vehicles for compliance with ORS 821.040. [1983 c.338 §445; 1985 c.16 §234]

821.040 Operation of off-road vehicle without required equipment; penalty. (1) A person commits the offense of operation of an off-road vehicle without required equipment if the person is operating a vehicle described in ORS 821.010 in an area described in ORS 821.020 and the vehicle is not equipped in compliance with all of the following:

(a) The vehicle must be equipped with a muffler that meets the standards for noise emissions established under ORS 821.030.

(b) The vehicle must be equipped with brakes that meet the requirements established under ORS 821.030.

(c) The vehicle must be equipped with a windshield wiper if the vehicle is equipped with a windshield.

(d) When the vehicle is operated on sand, the vehicle must be equipped with a flag that meets the requirements established under ORS 821.030.

(e) The vehicle must be equipped with any safety equipment required under ORS 821.030.

(f) At any time from one-half hour after sunset to one-half hour after sunrise, the vehicle must be equipped with and display headlights and taillights.

(2) Motorcycles and mopeds are not required by this section to be equipped with windshield wipers.

(3) The offense described in this section, operation of off-road vehicle without required equipment, is a Class C traffic violation. [1983 c.338 §712; 1985 c.393 §40; 2001 c.669 §9]

SNOWMOBILES AND ALL-TERRAIN VEHICLES

(Generally)

821.050 Limits on authority of local governments; disposition of fees for snowmobiles. (1) Limits on the authority of cities, counties or other political subdivisions of this state or any state agency are as imposed under ORS 801.040.

(2) Fees collected by the Department of Transportation in the regulation of snowmobiles shall be used as provided in ORS 802.110 and 802.120. [1983 c.338 §713; 1985 c.459 §4a; 1989 c.991 §28; 1999 c.977 §23]

821.055 Operation of all-terrain vehicles on certain highways. Notwithstanding ORS 821.020, or any law requiring that vehicles be equipped in specified ways in order to operate on highways, a person may operate Class I, Class II, Class III and Class IV all-terrain vehicles on any highway in this state that is open to the public if:

(1) The highway is not maintained for passenger car traffic.

(2) The person is on or crossing a portion of highway right of way as permitted under ORS 821.200.

(3) The person is on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles. [1995 c.775 §8; 2011 c.360 §21; 2017 c.453 §4]

(Title for Snowmobiles)

821.060 Issuance; application; rules; fees. (1) The Department of Transportation shall provide for the issuance of titles for snowmobiles required to be titled under ORS 821.070. The following provisions relating to titling shall be the same for snowmobiles as for other vehicles:

(a) Fee for issuance.

(b) Provisions relating to transfer, including security interests and other types of transfer, fees for transfer, time limits for transfer and responsibility for making transfer and submitting documents.

(c) Information required to be placed on a title, except where the department determines such information would be inappropriate.

(d) Party to whom title is issued upon original issuance or transfer.

(e) Validity times and requirements.

(f) Provisions contained in ORS 819.010 to 819.040.

(g) Any provisions relating to title that are applicable to other vehicles under the vehicle code and that the department determines, by rule, to be necessary to assure that the titling of snowmobiles is administered in the same manner and has the same effect as the titling of other vehicles.

(h) Provisions relating to salvage titles.

(2) Application for issuance of title for a snowmobile shall be made in the manner and in a form prescribed by the department. The department may require any information in the application the department determines is reasonably necessary to determine ownership or right to title for a snowmobile. The department may provide for application for title separately from or with application for snowmobile registration or in any way the department determines appropriate.

(3) Dealers issued certificates under ORS 822.020 who sell snowmobiles shall accept application and fees for title of a snowmobile from each purchaser of a new or used snowmobile in a manner required by the department. [1985 c.16 §344; 1985 c.459 §5; 1987 c.261 §3; 1989 c.991 §6; 1991 c.873 §43; 1993 c.233 §69; 1993 c.751 §79; 1995 c.774 §15; 1997 c.249 §236; 1999 c.977 §26]

821.070 Failure to title; exemptions; penalty. (1) A person commits the offense of failure to title a snowmobile if the person is the owner of a snowmobile that is in this state or is operating a snowmobile at any place in this state and the snowmobile has not been issued a title as provided under ORS 821.060.

(2) The requirement to title a snowmobile under this section does not apply if the snowmobile is any of the following:

(a) Owned and operated by the United States, another state or political subdivision thereof.

(b) Owned and operated by this state or by any city, district or political subdivision thereof.

(c) Exempted from registration requirements by ORS 821.090.

(d) A new snowmobile that is in the possession of a dealer for purposes of sale or display.

(3) The offense described in this section, failure to title a snowmobile, is a Class D traffic violation. [1985 c.16 §346; 1985 c.459 §6; 1989 c.991 §7; 1995 c.383 §105; 1995 c.774 §16; 1999 c.977 §27]

(Registration for Snowmobiles)

821.080 Issuance; qualifications; duration; certificate; rules. (1) The Department of Transportation shall issue snowmobile registration to a qualified owner. To qualify for issuance of registration under this section:

(a) The owner must complete the application in the manner and in a form the department prescribes.

(b) The application shall state the name and address of each owner of the snowmobile to be registered.

(c) The application shall contain proof of title.

(d) The fee established under ORS 821.320 for registration of a snowmobile must be paid.

(2) Dealers issued certificates under ORS 822.020 who sell snowmobiles shall accept application and fees for registration from each purchaser of a new or used snowmobile that is required to be registered in this state. The department shall adopt rules for the implementation of this subsection.

(3) The department shall not issue any registration for a snowmobile unless the snowmobile has been issued a title in compliance with ORS 821.060 and 821.070.

(4) Snowmobile registration and renewal of registration are valid for a period of two years after which time the registration expires.

(5) Upon qualification for registration, the department shall do the following:

(a) Register the snowmobile.

(b) Assign a registration number to the snowmobile. The registration number assigned at the time of original registration shall remain with that vehicle until the vehicle is destroyed, abandoned or permanently removed from this state, or until changed or terminated by the department.

(c) Issue and deliver to the registered owner a certificate of registration in a form to be determined by the department.

(d) At the time of original registration and at the time of each subsequent renewal thereof, issue to the registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof.

(6) A snowmobile registration is not valid unless a validating tag and current registration certificate have been issued.

(7) The department shall provide procedures necessary for renewal of snowmobile registration consistent with this section and ORS 821.110 and 821.320.

(8) The department may adopt rules specifying additional requirements and procedures for registration of snowmobiles. Requirements and procedures adopted under this subsection shall be designed to assure that except as otherwise provided in this chapter, the registration of snowmobiles is administered in the same manner and has the same effect as the registration of vehicles under ORS chapter 803. [1983 c.338 §716; 1985 c.16 §348; 1985 c.459 §9; 1987 c.217 §9; 1987 c.261 §12; 1989 c.991 §8; 1993 c.751 §80; 1995 c.774 §17; 1999 c.977 §28]

821.090 Exemptions from snowmobile registration requirements. This section establishes exemptions from the requirements to register snowmobiles under ORS 821.100. The following are exempt from the registration requirements, either partially or completely as described:

(1) A snowmobile owned and operated by the United States, another state or a political subdivision thereof.

(2) A snowmobile owned and operated by this state or by any city, district or political subdivision thereof.

(3) A snowmobile owned by a resident of another state if registered in accordance with the laws of the state in which its owner resides. The exemption granted under this subsection:

(a) Is only granted to the extent that a similar exemption or privilege is granted under the laws of the other state for snowmobiles registered in this state.

(b) Is only granted for a period of up to 60 consecutive days. Any snowmobile that does not qualify for the exemption under this subsection because of this paragraph is subject to registration.

(4) A snowmobile operated under an out-of-state permit issued under ORS 821.130.

(5) A snowmobile operated under dealer plates as described in ORS 822.040.

(6) A snowmobile used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations. [1983 c.338 §715; 1985 c.16 §347; 1985 c.459 §8; 1987 c.254 §4; 1987

c.261 §4; 1987 c.387 §2; 1989 c.991 §9; 1995 c.774 §18; 1999 c.977 §29]

821.100 Operation of unregistered snowmobile; penalty. (1) A person commits the offense of operation of an unregistered snowmobile if the person operates a snowmobile that is not registered under ORS 821.080.

(2) Exemptions from this section are established under ORS 821.090.

(3) The offense described in this section, operation of an unregistered snowmobile, is a Class D traffic violation. [1983 c.338 §714; 1985 c.459 §7; 1989 c.991 §10; 1995 c.383 §106; 1995 c.774 §19; 1999 c.977 §30]

821.110 Failure to renew snowmobile registration; penalty. (1) A person commits the offense of failure to renew snowmobile registration if the person is the owner of a snowmobile in this state and the person does not renew registration for the snowmobile in the manner the Department of Transportation prescribes when the registration expires as provided under ORS 821.080 and pay the required fee for renewal of registration established under ORS 821.320.

(2) The offense described in this section, failure to renew snowmobile registration, is a Class D traffic violation. [1983 c.338 §717; 1985 c.459 §10; 1989 c.991 §29; 1995 c.383 §107; 1995 c.774 §20; 1999 c.977 §31]

821.120 Failure to properly display snowmobile registration numbers; penalty. (1) A person commits the offense of failure to properly display snowmobile registration numbers if the person is the owner or operator of a snowmobile and the registration numbers issued by the Department of Transportation for the vehicle are not displayed on the vehicle or are displayed in a manner that violates any of the following:

(a) The registration numbers must be permanently affixed.

(b) The registration numbers must be displayed in a clearly visible manner.

(c) The registration number must be displayed upon the snowmobile in a manner prescribed by the department.

(d) The numbers displayed shall be in the form of painted numbers or decals and shall be of contrasting color with the surface on which they are applied.

(e) The registration numbers shall be maintained in a legible condition.

(f) Any validating date tag or tags issued by the department under ORS 821.080 shall be affixed in the manner prescribed by the department.

(2) The offense described in this section, failure to properly display snowmobile registration numbers, is a Class D traffic violation. [1983 c.338 §719; 1985 c.16 §349; 1985 c.459 §12; 1989 c.991 §11; 1995 c.383 §108; 1995 c.774 §21; 1999 c.977 §32]

821.125 [1991 c.481 §2; 1993 c.741 §139; repealed by 1999 c.977 §38]

(Permits)

821.130 Out-of-state snowmobile permit; qualifications; duration; application; fees. (1) An out-of-state snowmobile permit is a vehicle permit that is issued as evidence of a grant of authority to operate in this state a snowmobile that is:

(a) Owned by a resident of another state;

(b) Not registered in this state or in the other state; and

(c) Exempt from registration under ORS 821.090.

(2) The Department of Transportation shall establish a program for the issuance of out-of-state snowmobile permits under this section. The program established by the department shall comply with all of the following:

(a) A permit may only be issued for snowmobiles owned by the resident of another state where registration is not required by law.

(b) A permit is valid for not more than 60 days.

(c) Application for a permit shall state the name and address of each owner.

(d) The fees for issuance of the permit are as provided under ORS 821.320. [1983 c.338 §720; 1985 c.459 §24; 1989 c.991 §30; 1993 c.751 §82; 1995 c.774 §22; 1999 c.977 §33]

821.140 Failure to carry out-of-state snowmobile permit; penalty. (1) A person commits the offense of failure to carry an out-of-state snowmobile permit if an out-of-state permit is issued for the vehicle under ORS 821.130 and the permit is not carried on the snowmobile at all times during operation of the snowmobile in this state.

(2) The offense described in this section, failure to carry an out-of-state snowmobile permit, is a Class D traffic violation. [1983 c.338 §721; 1985 c.459 §25; 1989 c.991 §31; 1995 c.383 §109; 1999 c.977 §34]

821.142 Failure to carry out-of-state all-terrain vehicle permit; penalty. (1) A person commits the offense of failure to carry an out-of-state all-terrain vehicle permit if an out-of-state permit is issued for the vehicle under ORS 390.590 and the permit is not carried on the all-terrain vehicle at all times during operation of the all-terrain vehicle in this state.

(2) The offense described in this section, failure to carry an out-of-state all-terrain ve-

hicle permit, is a Class D traffic violation. [1999 c.977 §12]

821.145 [Formerly 821.185; repealed by 1999 c.977 §38]

(Driving Privileges)

821.150 Operation of snowmobile without driving privileges; civil liability; penalty. (1) A person commits the offense of operation of a snowmobile without driving privileges if the person operates a snowmobile without one of the following having been issued to the person and on the person at the time the person is operating the snowmobile:

(a) A driver license.

(b) A snowmobile operator permit issued under ORS 821.160.

(2) This section does not apply to a person who is operating a snowmobile while taking a course from an instructor to obtain a snowmobile operator's permit under ORS 821.160.

(3) In addition to other penalties provided by this section, the operator or owner of a snowmobile may be liable as provided under ORS 821.310.

(4) The offense described in this section, operation of snowmobile without driving privileges, is a Class D traffic violation. [1983 c.338 §722; 1985 c.16 §350; 1985 c.393 §41; 1995 c.383 §32]

821.160 Snowmobile operator permit; issuance; rules for safety education course. (1) A snowmobile operator permit authorizes a person who does not have a driver license to operate a snowmobile without violation of ORS 821.150.

(2) The Department of Transportation shall issue or provide for issuance of a snowmobile operator permit to any person who has taken a snowmobile safety education course established under this section and has been found qualified to operate a snowmobile.

(3) The department shall adopt rules to provide for snowmobile safety education courses and the issuance of snowmobile operator permits consistent with this section. The rules adopted by the department shall be consistent with the following:

(a) The course must be one given by an instructor designated by the department as qualified to conduct such a course and issue such a permit.

(b) The rules shall provide for the designation of instructors and issuance of permits.

(c) The department may provide by rule for instructors to be provided and permits issued through public or private local and state organizations meeting qualifications established by the department. Organizations designated by the department may include organizations such as the Oregon State Snowmobile Association.

(4) Persons who are operating a snowmobile while taking a course from an instructor are exempt from ORS 821.150 as provided in that section. [1983 c.338 §723; 1985 c.16 §351]

821.165 Land funded for all-terrain vehicle use from All-Terrain Vehicle Account. As used in ORS 821.170, 821.172, 821.176, 821.192, 821.291, 821.292 and 821.293, "public lands" includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560. [2007 c.887 §7; 2011 c.360 §22]

821.170 Operation of Class I all-terrain vehicle without driving privileges; exemptions; penalty. (1) A person 16 years of age or older commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the person operates a Class I all-terrain vehicle on public lands and the person does not hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.

(2) A child under 16 years of age commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the child operates a Class I all-terrain vehicle on public lands and the child does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.

(c) The child must meet rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(3) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(4) The offense described in this section, operation of Class I all-terrain vehicle without driving privileges, is a Class C traffic violation. [1985 c.459 §17; 1987 c.158 §175; 1995 c.383 §110; 1999 c.977 §24; 2007 c.887 §1; 2011 c.360 §22a]

821.172 Operation of Class III all-terrain vehicle without driving privileges; exemptions; penalty. (1) A person 16 years of age or older commits the offense of opera-

tion of a Class III all-terrain vehicle without driving privileges if the person operates a Class III all-terrain vehicle on public lands and the person does not hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.

(2) A child under 16 years of age commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the child operates a Class III all-terrain vehicle on public lands and the child does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.

(3) A child under seven years of age may not operate a Class III all-terrain vehicle on public lands.

(4) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(5) The offense described in this section, operation of a Class III all-terrain vehicle without driving privileges, is a Class C traffic violation. [1995 c.774 §2; 1999 c.977 §25; 2007 c.887 §2; 2011 c.360 §22b]

821.174 Prohibition on operating Class I, Class III or Class IV all-terrain vehicle while driving privileges suspended. Notwithstanding any other provision of law, a person may not operate a Class I, Class III or Class IV all-terrain vehicle while the person's driving privileges are suspended or revoked. A person who violates this section is in violation of ORS 811.175 or 811.182, as appropriate. [1995 c.775 §7; 2011 c.360 §23]

Note: 821.174 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

821.175 [1987 c.587 §6; 1989 c.661 §3; 1989 c.991 §11a; 1995 c.774 §4; renumbered 821.195 in 1995]

821.176 Operation of Class IV all-terrain vehicle without driving privileges; exemptions; penalty. (1) A person commits the offense of operation of a Class IV all-terrain vehicle without driving privileges if the person operates a Class IV all-terrain vehicle on public lands and the person does not hold a valid driver license issued under ORS 807.040.

(2) This section does not apply to a child under the age of 16 if:

(a) The child's age complies with the manufacturer's minimum age recommendation as evidenced by the manufacturer's warning label affixed to the vehicle;

(b) The child is accompanied by a person who is at least 18 years of age, who holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and who is able to provide immediate assistance and direction to the child; and

(c) The child holds a Class IV all-terrain vehicle operator permit issued under ORS 390.577.

(3) This section does not apply if:

(a) The vehicle is used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; or

(b) The vehicle is being used on land owned or leased by the owner of the vehicle.

(4) The offense described in this section, operation of a Class IV all-terrain vehicle without driving privileges, is a Class C traffic violation. [2011 c.360 §6]

Note: 821.176 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 821 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

821.180 [1985 c.459 §18; repealed by 1999 c.977 §38]

821.182 [1995 c.774 §3; repealed by 1999 c.977 §38]

821.185 [1987 c.587 §§4,5; 1989 c.661 §1; 1993 c.751 §105; 1995 c.774 §5; renumbered 821.145 in 1995]

(Offenses)

821.190 Unlawful operation of snowmobile or all-terrain vehicle on highway or railroad; civil liability; penalty. (1) A person commits the offense of unlawful operation of an off-road vehicle on a highway or railroad if the person operates a vehicle described in subsection (2) of this section in any of the following described areas:

(a) On or across the paved portion, the shoulder, inside bank or slope of any highway, on or across the median of any divided highway or on or across any portion of a highway right of way under construction.

(b) On or across a railroad right of way.

(2) This section applies to:

(a) Snowmobiles.

(b) Class I all-terrain vehicles.

(c) Class II all-terrain vehicles that are not properly equipped for operation on a highway.

(d) Class III all-terrain vehicles.

(e) Class IV all-terrain vehicles.

(3) Exemptions from this section are established under ORS 821.055 and 821.200.

(4) In addition to penalties provided by this section, the operator or owner of a snowmobile or Class I, Class II, Class III or Class IV all-terrain vehicle may be liable as provided under ORS 821.310.

(5) The offense described in this section, unlawful operation of an off-road vehicle on a highway or railroad, is a Class B traffic violation. [1985 c.72 §2; 1985 c.459 §28 (enacted in lieu of 1983 c.338 §§724,725,726); 1989 c.991 §12; 1995 c.383 §111; 1999 c.372 §1; 2011 c.360 §24; 2017 c.453 §1]

821.191 Operation of Class I, Class II or Class IV all-terrain vehicle on highway; unlawful operation of Class I, Class II or Class IV all-terrain vehicle used for agricultural purposes; penalty. (1) Notwithstanding any other provision of law, a person may operate a Class I, Class II or Class IV all-terrain vehicle that is not otherwise properly equipped for operation on a highway on the highways of this state if:

(a) The person is using the all-terrain vehicle for transportation between ranching or farming headquarters, agricultural fields or pastures;

(b) The person holds a valid driver license;

(c) The person complies with posted speed limits, but in no event exceeds a speed of 20 miles per hour;

(d) The person operates the all-terrain vehicle as closely as is practicable to the right-hand edge of the highway, including shoulders, if any;

(e) The all-terrain vehicle is equipped with a lighted headlight and taillight; and

(f) The all-terrain vehicle displays a slow-moving vehicle emblem described under ORS 815.060.

(2) A person commits the offense of unlawful operation of a Class I, Class II or Class IV all-terrain vehicle used for agricultural purposes if the person operates a Class I, Class II or Class IV all-terrain vehicle on a highway in violation of subsection (1) of this section.

(3) The offense described in subsection (2) of this section, unlawful operation of a Class I, Class II or Class IV all-terrain vehicle used for agricultural purposes, is a Class D traffic violation. [2001 c.529 §§2,3; 2007 c.207 §2; 2011 c.360 §25]

Note: 821.191 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

821.192 Operating all-terrain vehicle in violation of posted restrictions. (1) A person commits the offense of operating an all-terrain vehicle in violation of posted restrictions if the person operates an all-terrain vehicle on public lands at a time when the lands are closed to all-terrain vehicles or operation of the vehicles is otherwise restricted, and notice of the restrictions has been posted by an agency with jurisdiction to impose the restrictions.

(2) The offense described in this section, operating an all-terrain vehicle in violation of posted restrictions, is a Class B traffic violation. [1999 c.565 §2]

821.195 Operation of all-terrain vehicle without permit and decal; exemptions; penalty. (1) A person commits the offense of operating an all-terrain vehicle without a permit and a decal if the person operates an all-terrain vehicle without a permit and a decal in an area or on a trail designated by the appropriate authority as open to all-terrain vehicles only if they have permits and decals.

(2) This section does not apply to:

(a) An all-terrain vehicle owned and operated by a resident of another state if the other state grants a similar exemption for all-terrain vehicles owned and operated by residents of Oregon and if the vehicle has not been operated in this state for more than 60 consecutive days; or

(b) An all-terrain vehicle owned and operated by the United States, this state or any other state or any political subdivision of the United States or of a state.

(3) The offense described in this section, operating an all-terrain vehicle without a permit and a decal, is a Class C traffic violation. [Formerly 821.175; 1999 c.977 §35]

Note: 821.195 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

821.200 Exemptions from general prohibition on operating on highway or railroad. This section establishes exemptions from the limitations placed on the use of snowmobiles and all-terrain vehicles under ORS 821.190. The prohibitions and penalties under ORS 821.190 do not apply when a snowmobile or all-terrain vehicle that qualifies for the exemption from equipment requirements under ORS 821.010 is being operated as described under any of the following:

(1) A person may lawfully cross a highway or railroad right of way while operating a snowmobile or all-terrain vehicle if the person complies with all of the following:

(a) The crossing must be made at an angle of approximately 90 degrees to the direction of the highway or railroad right of way.

(b) The crossing must be made at a place where no obstruction prevents a quick and safe crossing.

(c) The vehicle must be brought to a complete stop before entering the highway or railroad right of way.

(d) The operator of the vehicle must yield the right of way to vehicles using the highway or equipment using the railroad tracks.

(e) The crossing of a railroad right of way must be made at an established public railroad crossing.

(f) The crossing of a highway must be made at a highway intersection or at a place that is more than 100 feet from any highway intersection.

(g) If the operator of a snowmobile is under 12 years of age, a person who is 18 years of age or older must accompany the operator either as a passenger or as the operator of another snowmobile that is in proximity to the younger operator.

(2) A snowmobile or all-terrain vehicle may be lawfully operated upon a highway under any of the following circumstances:

(a) Where the highway is completely covered with snow or ice and has been closed to motor vehicle traffic during winter months.

(b) For purposes of loading or unloading when such operation is performed with safety and without causing a hazard to vehicular traffic approaching from either direction on the highway.

(c) Where the highway is posted to permit snowmobiles or all-terrain vehicles.

(d) In an emergency during the period of time when and at locations where snow upon the highway renders travel by automobile impractical.

(e) When traveling along a designated snowmobile or all-terrain vehicle trail.

(3) It shall be lawful to operate a snowmobile or all-terrain vehicle upon a railroad right of way under any of the following circumstances:

(a) Where the right of way is posted to permit the operation.

(b) In an emergency.

(c) When the snowmobile or all-terrain vehicle is operated by an officer or employee or authorized contractor or agent of a railroad. [1983 c.338 §727; 1985 c.72 §3; 1985 c.459 §29; 1989 c.991 §13; 1999 c.372 §2; 1999 c.565 §5; 2007 c.887 §3; 2017 c.453 §2]

821.202 Failure of all-terrain vehicle rider to wear motorcycle helmet; penalty. (1) A person commits the offense of failure of an all-terrain vehicle operator or passenger to wear a motorcycle helmet if:

(a) The person is under 18 years of age, operates or rides on a Class I, Class II, Class III or Class IV all-terrain vehicle on premises open to the public or on a highway and is not wearing a motorcycle helmet with a fastened chin strap; or

(b) The person is 18 years of age or older, operates or rides on a Class I or Class III all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles and is not wearing a motorcycle helmet with a fastened chin strap.

(2) The requirement to wear a motorcycle helmet with a fastened chin strap does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.

(b) Being used on land owned or leased by the owner of the vehicle.

(c) A Class II all-terrain vehicle registered under ORS 803.420 and has a roof or roll bar.

(3) The offense described in this section, failure of an all-terrain vehicle operator or passenger to wear a motorcycle helmet, is a Class D traffic violation. [1995 c.775 §§2,10; 2007 c.887 §3a; 2009 c.452 §1; 2011 c.360 §26; 2017 c.453 §10]

821.203 Endangering all-terrain vehicle operator or passenger; penalty. (1) A person commits the offense of endangering an all-terrain vehicle operator or passenger if:

(a) The person is operating a Class I, Class II, Class III or Class IV all-terrain vehicle on premises open to the public or on a highway and the person carries another person on the Class I, Class II, Class III or Class IV all-terrain vehicle who is under 18 years of age and is not wearing a motorcycle helmet with a fastened chin strap; or

(b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 18 years of age and the child operates or rides on a Class I, Class II, Class III or Class IV all-terrain vehicle on premises open to the public or on a highway without wearing a motorcycle helmet with a fastened chin strap.

(2) The requirement to wear a motorcycle helmet with a fastened chin strap does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.

(b) Being used on land owned or leased by the owner of the vehicle.

(c) A Class II all-terrain vehicle registered under ORS 803.420 and has a roof or roll bar.

(3) The offense described in this section, endangering an all-terrain vehicle operator or passenger, is a Class D traffic violation. [1995 c.775 §§3,11; 2007 c.887 §3b; 2009 c.452 §2; 2011 c.360 §27; 2017 c.453 §11]

821.204 Issuance of citation for violation of ORS 821.202 or 821.203. (1) If a child who is in violation of ORS 821.202 is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 821.203, rather than to the child for violation of ORS 821.202.

(2) If a child who is in violation of ORS 821.202 is at least 12 years of age and is under 18 years of age, a citation may be issued to the child for violation of ORS 821.202 or to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 821.203, but not to both. [1995 c.775 §4]

821.210 Operating improperly equipped snowmobile; civil liability; penalty. (1) A person commits the offense of operating an improperly equipped snowmobile if the person operates any snowmobile without all of the following equipment:

(a) A lighted headlight and taillight.

(b) An adequate braking device that may be operated either by hand or foot.

(c) An adequate and operating muffling device that shall effectively blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise and, on snowmobiles manufactured after January 4, 1973, that shall effectively maintain such noise at a level of 82 decibels or below on the "A" scale at 100 feet.

(2) The Department of State Police shall establish procedures for testing of noise levels consistent with this section.

(3) Snowmobiles used in organized racing events in an area designated for that purpose may use a bypass or cutout device without violation of the requirements for muffling devices and for noise levels under this section.

(4) In addition to other penalties provided by this section, the owner or operator of a snowmobile may be liable as provided under ORS 821.310.

(5) The offense described in this section, improperly equipped snowmobile, is a Class D traffic violation. [1983 c.338 §728; 1985 c.393 §44; 1995 c.383 §112]

821.220 Operating improperly equipped all-terrain vehicle; civil liability; penalty. (1) A person commits the offense of operating an improperly equipped all-terrain vehicle if the person operates any all-terrain vehicle without the following equipment:

(a) An adequate braking device that may be operated either by hand or foot.

(b) An adequate and operating muffling device that shall be maintained in good working order and in constant operation and shall effectively blend the exhaust and motor noise in such a manner so as to comply with all applicable noise emission standards established by the Department of Environmental Quality.

(2) The Department of Environmental Quality shall establish procedures for testing of noise levels consistent with this section.

(3) All-terrain vehicles used in organized racing events in an area designated for that purpose shall comply with the motor sports vehicles and facilities regulations of the Department of Environmental Quality.

(4) In addition to other penalties provided by this section, the owner or operator of an all-terrain vehicle may be liable as provided under ORS 821.310.

(5) The offense described in this section, operating an improperly equipped all-terrain vehicle, is a Class C traffic violation. [1985 c.459 §30; 1987 c.587 §12; 1989 c.991 §14; 1995 c.383 §33; 1999 c.59 §245]

821.230 Operating all-terrain vehicle without proper lighting equipment; penalty. (1) A person commits the offense of operating an all-terrain vehicle without proper lighting equipment if the person operates an all-terrain vehicle during times when limited visibility conditions exist and the vehicle is not equipped with a taillight and a lighted headlight.

(2) Nothing in this section requires an all-terrain vehicle to be equipped with a headlight or taillight if the vehicle is not operated during times when limited visibility conditions exist.

(3) The offense described in subsection (1) of this section, operating an all-terrain vehicle without proper lighting equipment, is a Class C traffic violation. [1985 c.459 §30a; 1987 c.587 §13; 1989 c.991 §15; 1995 c.383 §34]

821.240 Operating snowmobile or all-terrain vehicle while carrying firearm or bow; exemptions; penalty. (1) A person

commits the offense of operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all arrows are in a quiver.

(2) Subsection (1) of this section does not apply to:

(a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun;

(b) A law enforcement officer; or

(c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(3) As used in this section, "unloaded" means:

(a) If the firearm is a revolver, that there is no live cartridge in the chamber that is aligned with the hammer of the revolver;

(b) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed; or

(c) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no live cartridge in the chamber.

(4) The offense described in this section, operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow, is a Class B traffic violation. [1983 c.338 §729; 1985 c.393 §45; 1985 c.459 §31a; 1987 c.587 §14; 1989 c.991 §15a; 1991 c.589 §1; 2011 c.662 §6; 2015 c.709 §6]

821.250 Permitting dangerous operation of snowmobile or all-terrain vehicle; civil liability; penalty. (1) A person commits the offense of permitting dangerous operation of a snowmobile or an all-terrain vehicle if the person is the owner or other person having charge or control of a snowmobile or an all-terrain vehicle and the person knowingly authorizes or permits any person to operate the vehicle across a highway who is:

(a) Incapable by reason of age, physical or mental disability; or

(b) Under the influence of intoxicating liquor, cannabis, controlled substances or inhalants.

(2) In addition to other penalties provided by this section, operators or owners may be liable as provided under ORS 821.310.

(3) The offense described in this section, permitting dangerous operation of a snowmobile or an all-terrain vehicle, is a Class A traffic violation. [1983 c.338 §730; 1985 c.393 §46; 1985 c.459 §32; 1987 c.587 §15; 1989 c.991 §16; 1999 c.619 §14; 2017 c.21 §90]

821.260 Hunting or harassing animals from snowmobile or all-terrain vehicle; civil liability; penalty. (1) A person commits the offense of hunting or harassing animals from a snowmobile or an all-terrain vehicle if the person does any of the following:

(a) Operates a snowmobile or an all-terrain vehicle in a manner so as to run down, harass, chase or annoy any game animals or birds or domestic animals.

(b) Hunts from a snowmobile or an all-terrain vehicle.

(2) This section does not apply to:

(a) Officers of the State Fish and Wildlife Commission.

(b) Persons under contract to the commission in the performance of their official duties.

(c) Individuals who have secured a permit from the commission for purposes of research and study.

(3) In addition to other penalties provided by this section, operators or owners of a snowmobile or an all-terrain vehicle may be liable as provided under ORS 821.310.

(4) The offense described in this section, hunting or harassing animals from a snowmobile or an all-terrain vehicle, is a Class C misdemeanor. [1983 c.338 §731; 1985 c.16 §353; 1985 c.393 §47; 1985 c.459 §33; 1987 c.587 §16; 1989 c.991 §16a]

821.270 [1983 c.338 §732; 1985 c.393 §48; 1985 c.459 §34; repealed by 1987 c.587 §21]

821.280 Committing unlawful damage with snowmobile or Class I, Class II or Class IV all-terrain vehicle; civil liability; penalty. (1) A person commits the offense of committing unlawful damage with a snowmobile or Class I, Class II or Class IV all-terrain vehicle if the person operates any snowmobile or Class I, Class II or Class IV all-terrain vehicle in any area or in such a manner so as to expose the underlying soil or vegetation or to injure, damage or destroy trees or growing crops.

(2) In addition to other penalties provided by this section, the owner or operator of a snowmobile or Class I, Class II or Class IV all-terrain vehicle may be liable as provided under ORS 821.310.

(3) The offense described in this section, committing unlawful damage with a snowmobile or Class I, Class II or Class IV all-terrain vehicle, is a Class B traffic violation. [1983 c.338 §733; 1985 c.459 §35; 1987 c.587 §17; 2011 c.360 §28]

821.285 Committing unlawful damage with Class III all-terrain vehicle; civil liability; penalty. (1) A person commits the offense of committing unlawful damage with a Class III all-terrain vehicle if the person operates any Class III all-terrain vehicle in

any area or in such a manner so as to injure, damage or destroy trees or growing crops.

(2) In addition to other penalties provided by this section, the owner or operator of a Class III all-terrain vehicle may be liable as provided under ORS 821.310.

(3) The offense described in this section, committing unlawful damage with a Class III all-terrain vehicle, is a Class B traffic violation. [1989 c.991 §17a]

Note: 821.285 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

821.290 Dangerous operation of snowmobile or all-terrain vehicle; civil liability; penalty. (1) A person commits the offense of dangerous operation of a snowmobile or an all-terrain vehicle if the person does any of the following:

(a) Operates a snowmobile or an all-terrain vehicle at a rate of speed greater than reasonable and proper under the existing conditions.

(b) Operates a snowmobile or an all-terrain vehicle in a negligent manner so as to endanger the person or property of another or to cause injury or damage to either.

(2) In addition to other penalties provided by this section, the owner or operator of a snowmobile or an all-terrain vehicle may be liable as provided under ORS 821.310.

(3) The offense described in this section, dangerous operation of a snowmobile or an all-terrain vehicle, is a Class B traffic violation. [1983 c.338 §734; 1985 c.459 §36; 1987 c.587 §18; 1989 c.991 §18]

821.291 Endangering Class I all-terrain vehicle operator; exemptions; penalty. (1) A person commits the offense of endangering a Class I all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, the child operates a Class I all-terrain vehicle on public lands and the child:

(a) Does not possess a Class I all-terrain vehicle operator permit issued under ORS 390.570;

(b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child; or

(c) Is not in compliance with the rider fit guidelines established by the Parks and Recreation Department under ORS 390.585.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class I all-terrain vehicle operator, is a Class C traffic violation. [2007 c.887 §6; 2011 c.360 §29]

821.292 Endangering Class III all-terrain vehicle operator; exemptions; penalty. (1) A person commits the offense of endangering a Class III all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child at least seven years of age but under 16 years of age, the child operates a Class III all-terrain vehicle on public lands and the child:

(a) Does not possess a Class III all-terrain vehicle operator permit issued under ORS 390.575; or

(b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class III all-terrain vehicle operator, is a Class C traffic violation. [1995 c.774 §2a; 1999 c.977 §36; 2007 c.887 §4; 2011 c.360 §30]

821.293 Endangering Class IV all-terrain vehicle operator; exemptions; penalty. (1) A person commits the offense of endangering a Class IV all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, the child operates a Class IV all-terrain vehicle on public lands and the child:

(a) Does not possess a Class IV all-terrain vehicle operator permit issued under ORS 390.577;

(b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able

to provide immediate assistance and direction to the child;

(c) Is not in compliance with the manufacturer's minimum age recommendation as evidenced by the manufacturer's warning label affixed to the vehicle; or

(d) Is not in compliance with the rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class IV all-terrain vehicle operator, is a Class C traffic violation. [2011 c.360 §33]

Note: 821.293 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 821 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

821.295 Operating Class II, Class III or Class IV all-terrain vehicle in prohibited snow area; exemptions; penalty. (1) A person commits the offense of operating a Class II, Class III or Class IV all-terrain vehicle in a prohibited snow area if the person operates a Class II, Class III or Class IV all-terrain vehicle on a groomed trail or a designated snowmobile or cross country ski trail or area during a designated snow use period.

(2) This section does not apply to emergency vehicles or to trail grooming equipment.

(3) The offense described in this section, operating a Class II, Class III or Class IV all-terrain vehicle in a prohibited snow area, is a Class D traffic violation. [1987 c.587 §7; 1989 c.991 §18a; 1995 c.383 §113; 2011 c.360 §31]

821.300 [1983 c.338 §735; 1985 c.459 §37; 1987 c.587 §19; 1989 c.991 §19; 1993 c.751 §83; repealed by 2001 c.827 §18]

(Civil Liability)

821.310 Treble damages for damage to property. The operator or the owner of a snowmobile or all-terrain vehicle used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops or other property injured as the result of travel by such snowmobile or all-terrain vehicle over the property involved. The liability under this section is in addition to any penalties provided in ORS 821.150, 821.190, 821.210 or 821.250 to 821.290. [1983 c.338 §736; 1985 c.393 §49; 1985 c.459 §38; 1987 c.587 §20; 1989 c.991 §20]

(Fees)

821.320 Snowmobile registration and permit fees. The following fees are established relating to snowmobiles:

(1) Registration under ORS 821.080, $10.

(2) Renewal of registration under ORS 821.080, $10.

(3) Issuance of out-of-state permit under ORS 821.130, $7. [1983 c.338 §737; 1985 c.16 §354; 1985 c.459 §13; 1987 c.261 §5; 1989 c.991 §21; 1995 c.774 §23; 1999 c.977 §37]

(All-Terrain Vehicle Highway Access Routes)

821.330 Designation of all-terrain vehicle highway access routes. (1) The Oregon Transportation Commission shall designate all-terrain vehicle highway access routes on state highways throughout this state for the purpose of authorizing incidental use of all-terrain vehicles within the state highway right of way.

(2) The commission shall designate all-terrain vehicle highway access routes under this section after consultation with the All-Terrain Vehicle Highway Access Routes Advisory Committee established under ORS 821.335.

(3) A grant of authority under this section to operate an all-terrain vehicle on an all-terrain vehicle highway access route is effective when signs are posted giving notice that the commission has designated a portion of the state highway right of way as an all-terrain vehicle highway access route. [2017 c.453 §6]

Note: 821.330 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 821 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

821.335 All-Terrain Vehicle Highway Access Routes Advisory Committee. (1) The All-Terrain Vehicle Highway Access Routes Advisory Committee is established.

(2) The committee consists of seven members.

(3)(a) The State Parks and Recreation Director shall appoint:

(A) Two representatives of all-terrain vehicle users.

(B) One representative of a city or county.

(C) One representative of a law enforcement agency.

(D) One representative who is a member of the public.

(E) One representative of the State Parks and Recreation Department as a nonvoting member.

(b) The Director of Transportation shall appoint one representative of the Department of Transportation as a nonvoting member.

(4) The committee shall:

(a) Accept and evaluate proposed all-terrain vehicle highway access routes on portions of state highway rights of way;

(b) Conduct field reviews of proposed all-terrain vehicle highway access routes and consult with the following:

(A) A county commissioner;

(B) A sheriff's office;

(C) Any road authority with jurisdiction of the proposed all-terrain vehicle highway access route;

(D) A member of a local all-terrain vehicle user organization;

(E) A land management agency in the area that provides all-terrain vehicle riding opportunities; and

(F) If the proposed all-terrain vehicle highway access route is located within the boundaries of a city, a representative of the city;

(c) Conduct at least one public meeting to explain the proposed all-terrain vehicle highway access route and receive comments; and

(d) Submit a report to the Department of Transportation and the Oregon Transportation Commission and may include recommendations related to all-terrain vehicle highway access routes on portions of state highway rights of way.

(5) The committee must take into consideration the following when developing its recommendations:

(a) The need to create connections between areas open to all-terrain vehicle use.

(b) Minimizing adverse effects on adjacent landowners.

(c) Road conditions, including but not limited to road width, shoulders, highway speed, population densities and sight distance.

(d) The desire of the local community to allow all-terrain vehicle highway access routes to cross portions of state highway rights of way for purposes of highway or trail connectivity, access to recreational areas and promoting tourism.

(e) Consistency with local all-terrain vehicle use on city streets and county roads adjacent to the portions of state highway rights of way.

(f) Safety.

(g) Any other factors the committee considers important.

(6) A majority of the voting members of the committee constitutes a quorum for the transaction of business.

(7) Official action by the committee requires the approval of a majority of the voting members of the committee.

(8) The committee shall elect one of its members to serve as chairperson.

(9) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(10) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the committee.

(11) The committee may adopt rules necessary for the operation of the committee.

(12) The State Parks and Recreation Department shall provide staff support to the committee.

(13) Members of the committee are not entitled to compensation, but may be reimbursed for necessary travel expenses incurred by them in the performance of their official duties.

(14) The State Parks and Recreation Department is directed to assist the committee in the performance of the committee's duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the committee consider necessary to perform their duties. [2017 c.453 §7]

Note: 821.335 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 821 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Chapter 822

2019 EDITION

Regulation of Vehicle Related Businesses

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VEHICLE DEALERS

(Generally)

822.005 Acting as vehicle dealer without certificate; penalty. (1) A person commits the offense of acting as a vehicle dealer without a certificate if the person is not the holder of a valid, current vehicle dealer certificate issued under ORS 822.020 and the person:

(a) Buys, sells, brokers, trades or exchanges vehicles either outright or by means of any conditional sale, bailment, lease, security interest, consignment or otherwise;

(b) Displays a new or used vehicle, trailer or semitrailer for sale; or

(c) Acts as any type of agent for the owner of a vehicle to sell the vehicle or acts as any type of agent for a person interested in buying a vehicle to buy a vehicle.

(2) This section does not apply to persons or vehicles exempted from this section under ORS 822.015.

(3) The offense described in this section, acting as a vehicle dealer without a certificate, is a Class A misdemeanor. [1983 c.338 §790; 1985 c.16 §389; 1985 c.598 §1; 1997 c.469 §1; 2003 c.655 §124]

822.007 Injunction against person acting as vehicle dealer in violation of vehicle code or rule; court-imposed monetary penalties. (1) In addition to any other remedies provided by law, the Department of Transportation may petition the circuit court to enjoin a person from acting as a vehicle dealer in violation of the Oregon Vehicle Code or any rule adopted by the department.

(2) A single act in violation of the provisions of the Oregon Vehicle Code or of any rules adopted by the department relating to vehicle dealers shall be sufficient ground for the court to issue the injunction.

(3) In addition to issuing an injunction, the court may assess a penalty not to exceed $15,000 if the department proves by a preponderance of the evidence that a person is acting as a vehicle dealer without possessing a vehicle dealer certificate. The court shall also award reasonable costs and disbursements, attorney and enforcement fees. [1991 c.541 §2]

822.009 Civil penalties for violations of statutes or rules. (1) The Department of Transportation may levy and collect a civil penalty, in an amount not to exceed $1,000 for each violation, against any person who has a vehicle dealer certificate if it finds that the dealer has violated any provisions of the Oregon Vehicle Code or of any rules adopted by the department relating to the regulation of vehicle dealers designated to act as agents of the department, the sale of vehicles, vehicle titling or vehicle registration.

(2) The department may levy and collect a civil penalty, in an amount not to exceed $5,000 for each vehicle improperly sold, brokered, exchanged or offered or displayed for sale, against any person if it finds that the person is in violation of:

(a) ORS 822.005 (1); or

(b) Any rules adopted by the department relating to the sale of vehicles and the person is not subject to subsection (1) of this section. [1991 c.541 §3; 1993 c.180 §1; 1997 c.469 §2; 2001 c.543 §1; 2017 c.172 §4]

822.010 [1985 c.16 §388; 1989 c.171 §93; repealed by 1997 c.469 §11]

822.015 Exemptions from vehicle dealer certification requirement; rules. (1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005 does not apply to the following vehicles or persons:

(a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency vehicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or less.

(b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the person owned the vehicle primarily for personal, family or household purposes. If the person has sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar year, the person shall have the burden of proving that the person owned the vehicles primarily for personal, family or household purposes or for other purposes that the Department of Transportation, by rule, defines as constituting an exemption under this section.

(c) A receiver, trustee, personal representative or public officer while performing any official duties.

(d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued by any jurisdiction.

(e) Except as otherwise provided in this paragraph, a manufacturer who sells vehicles the manufacturer has manufactured in Oregon. Nothing in this paragraph prevents any manufacturer from obtaining a vehicle dealer certificate under ORS 822.020. This paragraph does not exempt a manufacturer who sells or trades campers or travel trailers.

(f) An insurance adjuster authorized to do business under ORS 744.515 or 744.521 who is disposing of vehicles for salvage.

(g) Except as otherwise provided in this paragraph, a person who sells or trades or offers to sell or trade a vehicle that has been used in the operation of the person's busi-

ness. This paragraph does not exempt a person who is in the business of selling, trading, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate for dealing in those vehicles.

(h) A person who receives no money, goods or services, either directly or indirectly, for displaying a vehicle or acting as an agent in the buying or selling of a vehicle.

(i) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle parts for the person's own use in order to preserve, restore and maintain vehicles for the person's own use or for hobby or historical purposes.

(j) A manufactured structure dealer subject to the licensing requirement of ORS 446.671 or a person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer accepted in trade as part of a manufactured structure transaction. A manufactured structure dealership or exempt person may not directly sell more than three vehicles per calendar year under authority of this paragraph, but by consignment with a dealer certified under ORS 822.020 or 822.040 may sell an unlimited number of vehicles acquired as described in this paragraph.

(k) A lien claimant who sells vehicles in order to foreclose possessory liens.

(L) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien claimant acquired through possessory liens if the vehicles are sold at the business location of the lien claimant.

(m) Electric personal assistive mobility devices.

(n) A tower that received title for a vehicle under ORS 822.235.

(2) Notwithstanding ORS 822.005, the following may participate with other dealers in a display of vehicles, including but not limited to an auto show, if the display is an event that lasts for 10 days or less and is an event for which the public is charged admission:

(a) A person who is licensed as a vehicle dealer in another jurisdiction; or

(b) Any employee of a person who is licensed as a vehicle dealer in another jurisdiction.

(3) Notwithstanding ORS 822.005, a person who is licensed as a vehicle dealer in another jurisdiction or an employee of a person who is certified or licensed as a vehicle dealer may participate in a vehicle auction if the vehicle auction is:

(a) Conducted by a vehicle dealer who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040; and

(b) Open only to certified or licensed vehicle dealers or their employees.

(4) The department shall adopt rules to carry out the provisions of this section, including but not limited to specifying which dealers may take vehicles on consignment from other jurisdictions. [1983 c.338 §791; 1985 c.16 §390; 1985 c.316 §8; 1985 c.598 §2; 1987 c.217 §10; 1987 c.261 §6; 1991 c.541 §8; 1995 c.57 §1; 1997 c.469 §3; 2001 c.172 §5; 2001 c.543 §2; 2003 c.341 §21; 2003 c.459 §1; 2003 c.655 §125; 2009 c.551 §3; 2015 c.111 §1; 2017 c.523 §7; 2019 c.151 §43]

822.020 Issuance of certificate; fee. Except as provided in ORS 822.022 and 822.035 (8), the Department of Transportation shall issue a vehicle dealer certificate to any person if the person meets all of the following requirements:

(1) The person must complete the application for a dealer certificate described under ORS 822.025.

(2) The person must deliver to the department a bond or letter of credit that meets the requirements under ORS 822.030.

(3) The person must deliver to the department a certificate of insurance that meets the requirements established by ORS 822.033.

(4) The person must pay the fee required under ORS 822.700 for issuance of a vehicle dealer certificate.

(5) The person must certify completion of the precertification education and test requirements of ORS 822.027 (1)(a) if the person is a dealer subject to the education and test requirements. [1983 c.338 §792; 1985 c.16 §391; 1989 c.434 §1; 1991 c.331 §144; 1999 c.277 §3; 2001 c.555 §1; 2013 c.531 §2; 2017 c.530 §5]

822.022 Restrictions on issuing certificates. The Department of Transportation may not issue a vehicle dealer certificate authorizing a person to deal exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles. [2017 c.530 §3]

Note: 822.022 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

822.025 Application contents. An application for a vehicle dealer certificate issued by the Department of Transportation under ORS 822.020 shall be in a form prescribed by the department and shall contain all of the following:

(1) The names and residence addresses of the persons applying, as follows:

(a) If the applicant is a firm or partnership, the name of the firm or partnership with the names and residence addresses of all members thereof.

(b) If the applicant is a corporation, the name of the corporation with the names of the principal officers and their residence addresses and the name of the state under whose laws the corporation is organized.

(2) The name under which the business will be conducted.

(3) The street address, including city and county in Oregon, where the business will be conducted.

(4) Whether or not used vehicles are handled.

(5) A certificate from the applicant showing that the applicant will act as a vehicle dealer and will conduct business at the location given on the application.

(6) A certificate signed by a person authorized by the local governing body to do so, stating that the location of the business as given in the application for a certificate complies with any land use ordinances or business regulatory ordinances of the city or county. The provisions of this subsection do not apply to renewal of a vehicle dealer certificate under ORS 822.040 unless the location of the business is being changed at the time of renewal.

(7) Any information required by the department to efficiently administer the registration of vehicles and regulation of dealers or other relevant information required by the department.

(8) If the applicant is a dealer subject to the education and test requirements under ORS 822.027 (1)(a), a certificate from the provider of each precertification education program listing the courses that the applicant has completed and the tests that the applicant has passed in the precertification education program.

(9) If the applicant will offer new recreational vehicles for sale, a certificate from the applicant stating that the applicant will maintain a recreational vehicle service facility at the street address provided by the applicant pursuant to subsection (3) of this section. [1983 c.338 §793; 1985 c.598 §3; 1993 c.751 §84; 1997 c.469 §4; 1999 c.277 §4; 1999 c.593 §1; 2001 c.172 §6; 2003 c.655 §126; 2013 c.531 §3]

822.027 Education requirements for vehicle dealers. (1) Except as provided in subsections (2) and (3) of this section, the following education requirements apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040:

(a) An applicant for a vehicle dealer certificate under ORS 822.020 must complete a minimum of eight hours of courses in any approved precertification education program described in subsection (4) of this section and pass the tests required under paragraph (c) of this subsection within one year prior to submitting an application for the certificate;

(b) An applicant for a renewal certificate under ORS 822.040 must, for each year of a certification period, complete a minimum of four hours of courses in any approved continuing education program described in subsection (4) of this section and pass the tests required under paragraph (c) of this subsection prior to submitting an application for the renewal certificate. An applicant may not repeat a course in an approved continuing education program for which the applicant previously obtained credit within the same certification period; and

(c) For each course hour required under paragraphs (a) and (b) of this subsection, the provider shall administer a test and the applicant must pass each test with a score of at least 70 percent in order to receive credit for the course hour. Each test must contain at least 10 questions.

(2) The precertification education requirements in subsection (1)(a) of this section do not apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040 if, at the time of application, the applicant holds another certificate issued under ORS 822.020 or 822.040.

(3) The continuing education requirements of subsection (1)(b) of this section do not apply to an applicant for renewal of a vehicle dealer certificate under ORS 822.040 if the applicant is:

(a) A dealer having a franchise in this state for nationally advertised and recognized motor vehicles;

(b) A dealer having a franchise in this state for new recreational vehicles;

(c) A motor vehicle rental company having a national franchise under the ownership of a corporation that operates throughout the United States; or

(d) A national auction company that holds a vehicle dealer certificate and a dismantler certificate whose primary activity in this state is the sale or disposition of totaled vehicles.

(4) Precertification and continuing education programs and the tests required in subsection (1) of this section may be developed by any motor vehicle industry organization including, but not limited to, the Oregon Independent Auto Dealers Association. Each education program shall be submitted to the advisory committee established under ORS 802.370 for approval every two years. The committee shall vote to approve

or deny approval of each program. A program that is approved must cover state and federal law in at least the following areas:

(a) Motor vehicle advertising;

(b) Odometer laws and regulations;

(c) Vehicle licensing and registration;

(d) Unlawful dealer activities;

(e) Environmental rules and regulations;

(f) Oregon and industry standard motor vehicle forms;

(g) Truthful lending practices;

(h) Motor vehicle financing;

(i) Service and warranty contracts; and

(j) Land use regulations governing motor vehicle dealers.

(5) Precertification and continuing education programs required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations if the education programs have been approved by the advisory committee established under ORS 802.370 as required in subsection (4) of this section.

(6) The approval of an education program under subsection (4) of this section expires two years from the date of the approval. [1999 c.277 §2; 2001 c.727 §1; 2003 c.179 §1; 2003 c.655 §127; 2005 c.654 §§32,33; 2007 c.370 §1; 2013 c.531 §1]

822.030 Bond or letter of credit requirements; rights of action. (1) A bond or letter of credit required to qualify for a vehicle dealer certificate under ORS 822.020 or to qualify for renewal of a certificate under ORS 822.040 must comply with all of the following:

(a) The bond shall have a corporate surety licensed to do business within this state. A letter of credit shall be an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The surety or institution shall notify the Department of Transportation if the bond or letter of credit is canceled for any reason. The surety or institution shall continue to be liable under the bond or letter of credit until the department receives the notice required by this paragraph, or until the cancellation date specified in the notice, whichever is later.

(b) The bond or letter of credit shall be executed to the State of Oregon.

(c) Except as otherwise provided in this paragraph, the bond or letter of credit shall be in the following sum:

(A) If the person holds a certificate to be a dealer exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles, the bond or letter of credit shall be for $10,000.

(B) Except as provided in subparagraph (A) of this paragraph, if the applicant is seeking a certificate to be a vehicle dealer, the bond or letter of credit shall be for $50,000 for each year the certificate is valid.

(d) The bond or letter of credit described in this subsection shall be approved as to form by the Attorney General.

(e) The bond or letter of credit must be conditioned that the person issued the certificate shall conduct business as a vehicle dealer without fraud or fraudulent representation and without violating any provisions of the vehicle code relating to vehicle registration, vehicle permits, the transfer or alteration of vehicles or the regulation of vehicle dealers.

(f) The bond or letter of credit must be filed and held in the office of the department.

(g) The vehicle dealer shall purchase a bond or letter of credit under this subsection annually on or before each anniversary of the issuance of the vehicle dealer's certificate.

(2) Any person shall have a right of action against a vehicle dealer, against the surety on the vehicle dealer's bond and against the letter of credit in the person's own name if the person suffers any loss or damage by reason of the vehicle dealer's fraud, fraudulent representations or violations of provisions of the vehicle code relating to:

(a) Vehicle registration;

(b) Vehicle permits;

(c) The transfer or alteration of vehicles; or

(d) The regulation of vehicle dealers.

(3) Notwithstanding subsection (2) of this section, the maximum amount available under a bond or letter of credit described in subsection (1)(c)(B) of this section for the payment of claims to persons other than retail customers of the dealer is $10,000.

(4) Notwithstanding subsection (2) of this section, a person other than a retail customer of the vehicle dealer may not make a claim under subsection (2) of this section against the surety on the vehicle dealer's bond, or against the vehicle dealer's letter of credit, if the vehicle dealer holds a vehicle dealer certificate to deal exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles.

(5) If the certificate of a vehicle dealer is not renewed or is voluntarily or involuntarily canceled, the sureties on the bond and

the issuer of the letter of credit are relieved from liability that accrues after the department cancels the certificate. [1983 c.338 §794; 1985 c.16 §392; 1985 c.598 §6; 1987 c.261 §7; 1989 c.434 §2; 1991 c.331 §145; 1997 c.631 §556; 1999 c.593 §§2,5; 2001 c.141 §§2,3,4,5; 2017 c.530 §1]

822.033 Requirements for certificate of insurance; exemptions. A certificate of insurance required to qualify for a vehicle dealer certificate under ORS 822.020 or to qualify for renewal of a certificate under ORS 822.040 must comply with all of the following:

(1) The certificate shall:

(a) Be issued by an insurance carrier licensed to do business within this state;

(b) Show that the dealer is insured by a policy that provides the minimum limits of coverage required under ORS 806.070;

(c) Show that the dealer is insured by a policy that provides for payment of judgments of the type described in ORS 806.040;

(d) Show that the dealer is insured by a policy covering all vehicles manufactured, owned, operated, used or maintained by or under the control of the dealer;

(e) Show that the dealer is insured by a policy that also covers all other persons who, with the consent of the dealer, use or operate vehicles manufactured, owned or maintained by or under the control of the dealer;

(f) Be dated as of the date of the motor vehicle policy for which it is given;

(g) Contain the policy number; and

(h) Provide that the insurer shall give the Department of Transportation written notice of any cancellation of the policy and that the insurer shall continue to be liable under the policy until the department receives the notice required by this paragraph or until the cancellation date specified in the notice, whichever is later.

(2) The certificate of insurance must be filed and held in the office of the department.

(3) A dealer is exempt from the requirement to file the certificate of insurance described in this section if the dealer certifies, in such form as may be required by the department, that the dealer will be dealing exclusively in one or more of the following:

(a) Antique vehicles issued permanent registration under ORS 805.010;

(b) Farm trailers;

(c) Farm tractors;

(d) Implements of husbandry; or

(e) Snowmobiles, Class I or Class III all-terrain vehicles. [1989 c.434 §3a; 1993 c.180 §2; 2003 c.655 §128; 2015 c.138 §39]

822.035 Investigation of application; dealer number; rules; records inspection; dealer plates and identification card; effect of revocation or suspension in another jurisdiction. The Department of Transportation:

(1) Upon receipt of an application for a vehicle dealer certificate, shall examine the application and may make an individual investigation relative to statements contained in the application.

(2) Upon being satisfied that an applicant is entitled to a vehicle dealer certificate and that the proper fees have been paid for the certificate, shall assign the vehicle dealer a distinctive dealer number that allows the dealer to conduct business under the certificate and shall forward to the dealer a vehicle dealer certificate stating thereon the dealer's number.

(3) Has authority to determine whether or not an applicant for a vehicle dealer certificate is a vehicle dealer.

(4) Has authority to make suitable rules for the issuance of vehicle dealer certificates to expire consistently with ORS 822.040.

(5) May make inspections of any vehicle dealer records required under ORS 822.045 and of any vehicles included in a vehicle dealer's inventory or located on the vehicle dealer's premises. Inspections authorized by this subsection may be conducted by the department at reasonable intervals, during normal business hours, and may not exceed a scope of inspection necessary for the department to determine the following:

(a) A vehicle dealer's compliance with statutes regulating vehicle dealers under the vehicle code;

(b) A vehicle dealer's compliance with those provisions of the vehicle code regulating the titling and registration of vehicles;

(c) A vehicle dealer's compliance with rules adopted by the department relating to the regulation of vehicle dealers and the registration and titling of vehicles; and

(d) The identification of stolen vehicles.

(6) Shall provide a vehicle dealer with plates or devices authorized under ORS 805.200 to allow the exercise of the privileges granted under ORS 822.040.

(7) May provide a vehicle dealer with identification cards in the names of the owners of the business or in the names of authorized employees of the business.

(8) May not issue a vehicle dealer certificate under ORS 822.020 to an applicant who has been issued a similar certificate from another jurisdiction that has been revoked or is currently suspended unless the appli-

cant possesses a current, valid vehicle dealer certificate issued under ORS 822.020.

(9) May not use the revocation or suspension by another state of a vehicle dealer certificate or similar certificate as a basis for refusing to allow a vehicle dealer holding a current, valid vehicle dealer certificate issued under ORS 822.020 to obtain a vehicle dealer certificate under ORS 822.020 or a supplemental certificate under ORS 822.040 or to renew a certificate under ORS 822.040.

(10) May adopt any reasonable rules necessary for the administration of the laws relating to the regulation of vehicle dealers, the issuance of vehicle dealer certificates, the issuance of vehicle dealer identification cards, regulation of vehicle dealers designated as agents under ORS 802.031 and the issuance of vehicle dealer plates. The rules adopted under this subsection must be consistent with the statutory provisions of the vehicle code. The rules may include, but are not limited to, grounds and procedures for the revocation, denial, probation or suspension of vehicle dealer certificates or of a vehicle dealer's designation to act as an agent of the department. [1983 c.338 §796; 1985 c.16 §394; 1987 c.261 §7a; 1993 c.741 §140; 2001 c.555 §2; 2017 c.172 §3]

822.040 Privileges granted by certificate; taxes; supplemental or corrected certificate; duration; renewal; rules. (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020 may exercise the following privileges under the certificate:

(a) A dealer is authorized, without violating ORS 803.025 or 803.300, to use and operate over and along the highways of this state all vehicles displaying the dealer's plates whether registered or not or whether or not a title is issued for the vehicle. This paragraph does not authorize dealers to use or operate vehicles under dealer plates unless the vehicles are actually owned or controlled by the dealer and in actual use by the dealer, members of the dealer's firm, any salesperson thereof or any person authorized by the dealer. Vehicles operated under dealer plates may be used for the same purposes as are any other vehicles registered in this state that are registered by payment of the fee under ORS 803.420. This paragraph is subject to the limitations under ORS 822.045.

(b) A dealer is entitled to receive dealer plates or devices and replacement or additional dealer plates or devices. As many additional dealer plates as may be desired may be obtained upon the filing of a formal application for additional plates with the Department of Transportation. The plates issued to dealers shall require the payment of fees as provided under ORS 805.250.

(c) The person is not subject to the prohibitions and penalties under ORS 822.005 as long as the holder's vehicle dealer business is conducted in a location approved under the certificate.

(d) The dealer shall be considered the owner of vehicles manufactured or dealt in by the dealer, before delivery and sale of the vehicles, and of all vehicles in the dealer's possession and operated or driven by the dealer or the dealer's employees.

(e) Notwithstanding ORS 825.474, in lieu of paying the weight-mile tax imposed under ORS 825.474, the dealer may pay the fuel taxes imposed under ORS 319.020 and 319.530, when the vehicle:

(A) Displays the dealer's plates;

(B) Is actually owned or controlled by the dealer and in actual use by the dealer, members of the dealer's firm, any salesperson of the dealer or any person authorized by the dealer;

(C) Is operated on the highway for the purpose of test driving the vehicle; and

(D) Is unloaded.

(2) The holder of a vehicle dealer certificate may open additional places of business under the same business name by obtaining a supplemental certificate from the department under this subsection. The following all apply to a supplemental certificate issued under this subsection:

(a) The department may not issue a supplemental certificate under this subsection if the additional place of business opened will be operated under a different business name than that indicated on the current certificate. Any business that a vehicle dealer operates under a separate business name must be operated under a separate certificate and the dealer must apply for and pay the fees for a regular dealer certificate for the business.

(b) A supplemental certificate issued under this subsection is subject to the fee for supplemental certificate under ORS 822.700.

(3) The holder of a vehicle dealer certificate may move a place of business or change a business name by obtaining a corrected certificate from the department. For purposes of this subsection, "place of business" includes a recreational vehicle service facility as defined in ORS 822.082. The following apply to a corrected certificate issued under this subsection:

(a) The department shall prescribe the form for application for a corrected certificate.

(b) A person applying for a corrected certificate shall pay the fee for the corrected certificate established in ORS 822.700.

(4) The department may establish by rule the requirements a holder of a vehicle dealer certificate must meet to display a vehicle at a location other than the dealer's place of business for the purpose of advertising without first obtaining a supplemental certificate from the department. In addition to any requirements established by the department by rule, all of the following apply:

(a) The dealer must have a signed agreement with the owner of the property or the person using the property where the vehicle is to be displayed stating that the vehicle is for an advertising promotion only and that the processing of any documents or other activities required to purchase a vehicle must be done at the dealer's place of business.

(b) The vehicle on display must be clearly marked with the dealer's name and contact information and a notice that the vehicle is displayed only for the purpose of advertising and may be purchased only at the dealer's place of business.

(c) Displaying the vehicle must not violate any zoning laws or ordinances.

(d) The dealer or the dealer's employees may not remain with the vehicle except for the purpose of moving the vehicle in or out of the display area.

(5) A vehicle dealer certificate is valid for a three-year period and may be renewed as provided by the department. The department shall only renew a certificate if the applicant for renewal does all of the following:

(a) Pays the required fee for renewal under ORS 822.700.

(b) Delivers to the department a bond that meets the requirements under ORS 822.030.

(c) Delivers to the department a certificate of insurance that meets the requirements under ORS 822.033.

(d) Provides the names of all partners or corporate officers.

(e) Certifies completion of the continuing education requirements of ORS 822.027 (1)(b) if the person is a dealer subject to the education requirements.

(f) If the dealer offers new recreational vehicles for sale under the certificate, certifies that the dealer maintains a recreational vehicle service facility as listed in the dealer certificate application described in ORS 822.025.

(6) The department may adopt suitable rules for the issuance and renewal of certificates under this section and ORS 822.020. [1983 c.338 §795; 1985 c.16 §393; 1985 c.174 §12; 1985 c.400 §5; 1985 c.598 §7a; 1989 c.434 §4; 1993 c.233 §70; 1993 c.741 §141; 1997 c.469 §5; 1999 c.277 §5; 1999 c.593 §3; 2001 c.172 §7; 2003 c.655 §129; 2005 c.132 §§1,2; 2005 c.133 §§1,2; 2013 c.531 §4; 2015 c.543 §1]

822.042 Procedures for transfer of interest in vehicle by vehicle dealer. (1) A vehicle dealer transferring any interest in a vehicle or camper shall:

(a) Within 25 calendar days of the transfer furnish the certificate of title or other primary ownership document for the vehicle and any release thereon to the security interest holder next named, if any, otherwise to the lessor or, if none, to the purchaser;

(b) Within 30 calendar days of the transfer submit to the Department of Transportation, in a manner that complies with any applicable statutes and rules, an application for title on behalf of the person to whom the title is to be furnished or whose name is to appear on the title record;

(c) Comply with rules adopted by the department if title has not been or will not be issued in the form of a certificate; or

(d) Within 25 business days of the transfer provide a notice of delay to the security interest holder next named, if any, the lessor, if any, and the purchaser. The notice shall contain:

(A) The reason for the delay;

(B) The anticipated extent of the delay; and

(C) A statement of the rights and remedies available to the purchaser if the delay becomes unreasonably extended.

(2) A vehicle dealer shall maintain records as determined by the department by rule to show whether the dealer has complied with subsection (1) of this section.

(3) A vehicle dealer that fails to comply with the provisions of subsection (1) of this section is subject to revocation, cancellation or suspension of the dealer's certificate pursuant to ORS 822.050. [1989 c.452 §2; 1991 c.873 §44; 1993 c.233 §71; 1997 c.469 §6; 2001 c.104 §309; 2003 c.655 §130]

822.043 Dealer preparation and submission of documents; privilege tax. (1) As used in this section:

(a) "Integrator" has the meaning given that term in ORS 802.600.

(b) "Vehicle dealer" means a person issued a vehicle dealer certificate under ORS 822.020.

(2) A vehicle dealer that the Department of Transportation has designated to act as an agent of the department under ORS 802.031 may elect to prepare, submit, or prepare and submit documents necessary to:

(a) Issue or transfer a certificate of title for a vehicle;

(b) Register a vehicle or transfer registration of a vehicle;

(c) Issue a registration plate;

(d) Verify and clear a title;

(e) Perfect, release or satisfy a lien or other security interest;

(f) Comply with federal security requirements; or

(g) Render any other services for the purpose of complying with state and federal laws related to the sale of a vehicle.

(3) A vehicle dealer who prepares any documents described in subsection (2) of this section:

(a) May charge a purchaser of a vehicle a document processing fee for the preparation of those documents.

(b) May not charge a purchaser of a vehicle a document processing fee for the submission of any document or the issuance of a registration plate.

(c) May charge a purchaser of a vehicle a document processing fee for performing any of the services described in subsection (2) of this section in connection with preparing the documents described in subsection (2) of this section.

(4) A purchaser of a vehicle may negotiate the amount of the document processing fee with a vehicle dealer, but in no case shall the document processing fee charged by a vehicle dealer under this section exceed:

(a) $150, if the vehicle dealer uses an integrator; or

(b) $115, if the vehicle dealer does not use an integrator.

(5) If a vehicle dealer charges a document processing fee under subsection (4)(a) of this section, of the amount collected $25 shall be paid to the integrator.

(6) Unless otherwise provided by rule, if a vehicle dealer uses an integrator and charges a document processing fee greater than that charged for not using an integrator, the dealer must inform the purchaser of the vehicle of the option of using an integrator to prepare the documents. The purchaser may then elect whether or not to have the vehicle dealer use an integrator to prepare the documents.

(7) If the purchaser of a vehicle pays a document processing fee, the vehicle dealer shall prepare and submit all documents to complete the transaction as permitted by law.

(8)(a) A vehicle dealer who collects the privilege tax imposed under ORS 320.405 from the purchaser of a taxable motor vehicle may collect the privilege tax at the same time and in the same manner as the vehicle dealer collects document processing fees under this section. The amount of the privilege tax shall be in addition to and not in lieu of document processing fees collected under this section.

(b) A vehicle dealer may exclude the amount of the privilege tax from the capitalized cost and offering price of a taxable motor vehicle as those terms are defined by the Department of Justice by rule. [Formerly 802.033; 2015 c.708 §3; 2017 c.172 §1; 2017 c.750 §90a]

Note: 822.043 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

822.045 Vehicle dealer offenses; penalties. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the penalties under this section if the vehicle dealer commits any of the following offenses:

(a) A vehicle dealer commits the offense of failure to obtain a supplemental vehicle dealer certificate if the vehicle dealer opens any additional place of business using the same business name as a place of business approved under a vehicle dealer certificate without first obtaining a supplemental dealer certificate under ORS 822.040.

(b) A vehicle dealer commits the offense of failure to obtain a corrected vehicle dealer certificate if the dealer moves a place of business or changes the business name without first obtaining a corrected dealer certificate under ORS 822.040.

(c) A vehicle dealer commits the offense of failure to maintain proper vehicle dealer records if the dealer does not keep records or books with all of the following information concerning any used or secondhand vehicles or campers the dealer deals with:

(A) A record of the purchase, sale or exchange or of the dealer's receipt for purpose of sale.

(B) A description of the vehicle or camper.

(C) The name and address of the seller, the purchaser and the alleged owner or other person from whom the vehicle or camper was purchased or received or to whom it was sold or delivered.

(D) For motor vehicles, the vehicle identification number and any other numbers or identification marks as may be thereon and a statement that a number has been obliterated, defaced or changed, if such is a fact.

(E) For trailers and campers, the vehicle identification number and any other numbers or identification marks as may be thereon.

(F) A duly assigned certificate of title or other primary ownership record or a bill of sale from the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer disposes of the vehicle or camper. If title is issued for the vehicle in a form other than a certificate, or if the primary ownership record is in a form other than a document, a dealer shall keep records in accordance with rules adopted by the Department of Transportation for the purpose of complying with this subparagraph.

(d) A vehicle dealer commits the offense of failure to allow administrative inspection if the dealer refuses to allow the department to conduct an inspection under ORS 822.035 at any time during normal business hours.

(e) A vehicle dealer commits the offense of failure to allow police inspection if the dealer refuses to allow any police officer to conduct an inspection under ORS 810.480 at any time during normal business hours.

(f) A vehicle dealer commits the offense of illegal use of dealer vehicle for hire if the dealer allows any vehicle operated under vehicle dealer registration to be loaned or rented with or without driver for hire or direct compensation.

(g) A vehicle dealer commits the offense of improper use of dealer plates or devices if the dealer or employee of the dealer causes or permits the display or use of any special vehicle dealer registration plate or device on any vehicle not owned or controlled by the dealer.

(h) A person commits the offense of improper display of dealer plates if the person operates over and along the highways of this state any unregistered vehicle owned or controlled by the dealer and any dealer plates issued are not displayed in the manner provided in ORS 803.540 for the display of registration plates.

(i) A vehicle dealer commits the offense of failure to exhibit the dealer certificate if the dealer fails to permanently exhibit the certificate at the place of business of the person at all times while the certificate is in force.

(j) Except as provided in subsection (2) of this section, a vehicle dealer commits the offense of failure to provide clear title if:

(A) Within 15 days of transfer of any interest in a vehicle or camper to the dealer by a consumer, the dealer fails to satisfy:

(i) The interest of any person from whom the dealer purchased or obtained the vehicle or camper;

(ii) The interest of any person from whom the person described in sub-subparagraph (i) of this subparagraph leased the vehicle or camper; and

(iii) All security interests in the vehicle or camper entered into prior to the time of transfer.

(B) Within 15 days of receiving clear title to a vehicle or camper from another dealer, the purchasing dealer fails to satisfy the interest of the dealer from which the purchasing dealer received the certificate of title or other primary ownership document. For purposes of this subparagraph, a purchasing dealer receives a certificate of title or other primary ownership document from a dealer on the date:

(i) The purchasing dealer or the Department of Transportation takes physical possession of the certificate or document; or

(ii) A written notice is mailed by certified or registered mail, return receipt requested, to the purchasing dealer from the dealer, stating that the certificate or document is available to be picked up at a place and time prearranged by both parties. The written notice must be mailed to a business address of the purchasing dealer that is on file with the department. Service by mail under this sub-subparagraph is effective on the date of mailing.

(k) Except as provided in subsection (3) of this section, a vehicle dealer commits the offense of failure to furnish certificate of title or application for title if, within 90 calendar days of transfer of any interest in a vehicle or camper by the dealer, the dealer has failed to:

(A) Furnish the certificate of title or other primary ownership record for the vehicle or camper and any release thereon or, if title has been issued or is to be issued in a form other than a certificate, any information or documents required by rule of the department, to the security interest holder next named, if any, otherwise to the lessor or, if none, to the purchaser; or

(B) Submit to the department in a manner that complies with any applicable statutes and rules, an application for title on behalf of the person to whom the title is to be furnished or whose name is to be shown on the title record.

(L) A vehicle dealer commits the offense of failure to maintain bond or letter of credit coverage if the dealer permits a bond or letter of credit to lapse during the period that the bond or letter of credit is required under ORS 822.020 or 822.040 or if the dealer fails to purchase a bond or letter of credit required by ORS 822.030.

(m) A person commits the offense of acting as a vehicle dealer while under revocation, cancellation or suspension if the person

conducts business as a vehicle dealer in this state and the person's vehicle dealer certificate is revoked, canceled or suspended, regardless of whether the person is licensed as a vehicle dealer in another jurisdiction. This paragraph does not apply if the person has other current, valid dealer certificates issued in this state.

(n) A vehicle dealer commits the offense of improper display of a vehicle for advertising purposes if the dealer displays a vehicle at a location other than the dealer's place of business for the purpose of advertising and the dealer does not comply with the provisions of ORS 822.040 (4).

(2) A dealer is not considered to have committed the offense described in subsection (1)(j)(A) of this section if the dealer fails to satisfy an interest in a vehicle or camper that arises from an inventory financing security interest for which the dealer is the debtor.

(3) A dealer is not considered to have committed the offense described in subsection (1)(k) of this section if the dealer demonstrates that:

(a) The dealer has made a good faith effort to comply; and

(b) The dealer's inability to provide title is due to circumstances beyond the dealer's control.

(4) The offenses described in this section are subject to the following penalties:

(a) The offense described in this section, failure to obtain a supplemental vehicle dealer certificate, is a Class A misdemeanor.

(b) The offense described in this section, failure to obtain a corrected vehicle dealer certificate, is a Class A misdemeanor.

(c) The offense described in this section, failure to maintain proper vehicle dealer records, is a Class A misdemeanor.

(d) The offense described in this section, failure to allow administrative inspection, is a Class A misdemeanor.

(e) The offense described in this section, failure to allow police inspection, is a Class A misdemeanor.

(f) The offense described in this section, illegal use of dealer vehicle for hire, is a Class B traffic violation.

(g) The offense described in this section, improper use of dealer plates or devices, is a Class D traffic violation.

(h) The offense described in this section, improper display of dealer plates, is a Class B traffic violation.

(i) The offense described in this section, failure to exhibit the dealer certificate, is a Class A misdemeanor.

(j) The offense described in this section, failure to provide clear title, is a Class A misdemeanor.

(k) The offense described in this section, failure to furnish certificate of title or application for title, is a Class A misdemeanor.

(L) The offense described in this section, failure to maintain bond or letter of credit coverage, is a Class A misdemeanor.

(m) The offense described in this section, acting as a vehicle dealer while under revocation, cancellation or suspension, is a Class A misdemeanor.

(n) The offense described in this section, improper display of a vehicle for advertising purposes, is a Class A misdemeanor. [1983 c.338 §797; 1985 c.16 §395; 1985 c.598 §8; 1987 c.261 §8; 1989 c.452 §3; 1991 c.873 §45; 1993 c.233 §72; 1993 c.741 §142; 1995 c.383 §114; 1997 c.469 §7; 1999 c.593 §4; 2001 c.682 §1; 2003 c.332 §1; 2003 c.655 §131; 2005 c.133 §§3,4; 2014 c.21 §1]

822.046 Vehicle dealer's duty to inform potential buyer if vehicle used for manufacture of controlled substances. (1) As used in this section, "controlled substance" means a drug or its immediate precursor classified in Schedule I or II under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035.

(2) A vehicle dealer shall inform a potential buyer if the dealer has received written notice that the vehicle to be sold to the buyer was used in the unlawful manufacture of controlled substances prior to sale to the buyer. Disclosure shall be in writing and shall be made to the buyer and to any lender financing the purchase of the vehicle prior to completion of the sale. Unless the vehicle is found fit for use under ORS 453.885, the dealer shall also post a notice on the vehicle stating that the vehicle was used in the unlawful manufacture of controlled substances. [1995 c.788 §1; 2003 c.655 §132]

Note: 822.046 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

822.047 Brokerage services. (1) As used in this section:

(a) "Brokerage services" means the arrangements or negotiations conducted by a motor vehicle broker for the purpose of obtaining a motor vehicle for a buyer or lessee from a seller or lessor through a method that does not include:

(A) Accepting the motor vehicle on consignment;

(B) If the motor vehicle broker has a franchise as defined in ORS 650.120, exchanging new motor vehicles with another motor vehicle dealer who has a franchise

that is with the same franchisor as the motor vehicle broker; or

(C) Receiving a referral fee from another motor vehicle dealer for referring a buyer or lessee when the motor vehicle broker did not participate in the arrangement or negotiation for the sale or lease of the motor vehicle.

(b) "Motor vehicle broker" means a person who holds a valid, current vehicle dealer certificate issued under ORS 822.020 and who receives a fee for acting on behalf of a buyer or lessee to arrange or negotiate the purchase or sale of a motor vehicle between a buyer and a seller, or the lease of a motor vehicle between a lessee and a lessor.

(2) At the time of entering into an agreement to provide brokerage services, a motor vehicle broker shall provide the buyer or lessee with a written disclosure that includes:

(a) A description of the specific brokerage services to be provided by the motor vehicle broker;

(b) A description of the fees the motor vehicle broker will charge for the brokerage services and a description of any deposits that are required to be paid before the motor vehicle is delivered to the buyer or lessee;

(c) A description of how the motor vehicle broker will charge and collect the fees and deposits described in paragraph (b) of this subsection; and

(d) A statement of whether or not the motor vehicle broker is responsible for warranty service work on the motor vehicle.

(3) In addition to the written disclosure required under subsection (2) of this section, a motor vehicle broker shall provide a statement to the buyer or lessee if the motor vehicle broker adds a fee for brokerage services to the purchase price or capitalized cost of the motor vehicle and the fee was negotiated with the seller or lessor on behalf of the buyer or lessee. The statement required under this subsection must:

(a) Inform the buyer or lessee that fees for brokerage services have been added to the purchase price or capitalized cost;

(b) State that the fees for brokerage services will be paid to the motor vehicle broker by the seller or lessor; and

(c) Be clear and conspicuous in not less than 14-point bold type.

(4) A motor vehicle broker may not:

(a) Calculate any fee charged to the buyer or lessee as a percentage of the savings achieved by the motor vehicle broker for the buyer or lessee on the purchase or lease of the motor vehicle;

(b) Collect from both the buyer and seller or both the lessee and lessor a fee for brokerage services that are for the same transaction;

(c) Represent that the motor vehicle broker is providing a free service to the buyer or lessee, unless the motor vehicle broker has not received and will not receive any compensation from the transaction; or

(d) If the fee for the brokerage services will be paid out of the proceeds of the purchase or lease, make any representation that could cause a buyer or lessee to believe that the motor vehicle broker will be compensated by the seller or lessor for the transaction.

(5) When representing a buyer or lessee, a motor vehicle broker shall act only as an agent for the buyer or lessee.

(6) If a motor vehicle broker maintains a dealer inventory, the motor vehicle broker:

(a) Shall inform the buyer or lessee whether or not the broker is acting as a broker or dealer for the transaction; and

(b) May not do any of the following if the motor vehicle broker entered into an agreement to act as a broker on behalf of the buyer or lessee and later negotiated to sell or lease a motor vehicle from the broker's dealer inventory to the buyer or lessee:

(A) Act as an agent for or represent the buyer or lessee;

(B) Charge the buyer or lessee a fee for brokerage services;

(C) Purchase or lease a motor vehicle on behalf of a buyer or lessee and then sell or lease that vehicle to the buyer or lessee as a motor vehicle dealer; or

(D) Sell a motor vehicle to a buyer or lease a motor vehicle to a lessee, unless the motor vehicle broker provides the buyer or lessee with a clear and conspicuous written disclosure that is signed by the buyer or lessee and that states the following:

(i) The motor vehicle broker is no longer acting as the agent for the buyer or lessee for the purposes of the sale or lease; and

(ii) The motor vehicle broker is acting as a motor vehicle dealer with whom the buyer or lessee is free to negotiate the purchase price or lease terms of the motor vehicle. [1993 c.464 §2; 2005 c.190 §1]

822.048 Remedy for failure to submit title. If a vehicle dealer fails to comply with ORS 822.042 (1)(b) or (d) or 822.045 (1)(k), the retail customer of the subject vehicle may bring an individual action against the vehicle dealer in the appropriate court. The court may award reasonable attorney fees to a prevailing plaintiff who brings an action un-

der this section if the court finds all of the following:

(1) A written demand was made on the defendant not less than 30 days before commencement of the action requesting compliance or other remedy.

(2) The defendant failed to comply or provide the remedy, including paying the plaintiff reasonable attorney fees and costs incurred by the plaintiff, within 30 days of the date of the written demand. [2019 c.543 §2]

Note: 822.048 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

822.050 Revocation, cancellation or suspension of certificate. (1) The Department of Transportation may revoke, suspend or place on probation a vehicle dealer if the department determines at any time for due cause that the dealer has done any of the following:

(a) Violated any grounds for revocation, suspension or probation adopted by the department by rule under ORS 822.035.

(b) Failed to comply with the requirements of the vehicle code with reference to notices or reports of the transfer of vehicles or campers.

(c) Caused or suffered or is permitting the unlawful use of any certificate or registration plates.

(d) Violated or caused or permitted to be violated ORS 815.410, 815.415, 815.425 or 815.430.

(e) Falsely certified under ORS 822.033 that the dealer is exempt from the requirement under ORS 822.020 or 822.040 to file a certificate of insurance.

(f) Continued to fail to provide clear title or repeatedly failed to provide clear title in violation of ORS 822.045.

(g) Knowingly certified false information required by the department on an application for a vehicle dealer certificate, supplemental certificate or corrected certificate.

(2) The department shall cancel a vehicle dealer certificate 45 days after receipt of legal notice that the bond described under ORS 822.030 is canceled, unless the department receives proof from the vehicle dealer that the dealer has obtained another bond. Between the day that the department receives notice that the bond is canceled and the day the vehicle dealer presents proof of another bond, the vehicle dealer may not act as a vehicle dealer.

(3) The department shall cancel a vehicle dealer certificate 45 days after receipt of notice that the certificate of insurance required under ORS 822.033 is canceled, unless the department receives proof from the vehicle dealer that the dealer has obtained another certificate of insurance. Between the day that the department receives notice that the certificate of insurance is canceled and the day the vehicle dealer presents proof of another certificate of insurance, the vehicle dealer may not act as a vehicle dealer.

(4) The department shall cancel a vehicle dealer certificate immediately upon receipt of notice that zoning approval for the business has been revoked.

(5) Upon revocation, cancellation or suspension of a vehicle dealer certificate under this section, the department shall recall and demand the return of the certificate and any vehicle dealer plates issued. [1983 c.338 §798; 1985 c.16 §396; 1985 c.251 §26; 1987 c.158 §176; 1989 c.434 §5; 1989 c.452 §4; 1993 c.741 §143; 1995 c.79 §382; 1997 c.469 §8; 2003 c.471 §1; 2003 c.655 §133]

822.055 Failure to return revoked, canceled or suspended certificate; penalty. (1) A person commits the offense of failure to return a revoked, canceled or suspended vehicle dealer certificate if the Department of Transportation recalls and demands the person to return any certificate or registration plates under ORS 822.050 and the person has those items requested and does not return them to the department without further demand.

(2) The offense described in this section, failure to return revoked, canceled or suspended vehicle dealer certificate, is a Class A misdemeanor. [1983 c.338 §799; 1985 c.393 §56; 1987 c.158 §177]

822.060 Illegal consignment practices; exception; penalty; rules. (1) Except as provided in subsection (2) of this section, a person who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040 commits the offense of illegal consignment practices if the person does any of the following:

(a) Takes a vehicle on consignment from a person who does not hold a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040, or who is not licensed as a vehicle dealer in another jurisdiction, and who does not have proof that the consignor is the registered owner, a security interest holder or lessor of the vehicle.

(b) Takes a vehicle on consignment from a security interest holder without the security interest holder first completing a repossession action prior to consigning the vehicle and providing the dealer with proper documentary proof of the repossession action.

(c) Takes a vehicle on consignment and does not have the terms of the consignment agreement in writing and provide a copy of the agreement to the consignor. The agreement shall include a provision stating that if the terms of the agreement are not met, the consignor may file a complaint in writing with the Department of Transportation, Salem, Oregon.

(d) Sells a vehicle that the dealer has on consignment and does not pay the consignor within 10 days of the sale.

(e) Sells a vehicle that the dealer has on consignment and does not either provide the purchaser with a certificate of title to the vehicle or with other primary ownership records in the form of documents or apply to the department in the purchaser's name for title to the vehicle within 30 days of the sale in a manner provided by the department by rule.

(f) Does not allow the department or any duly authorized representative to inspect and audit any records of any separate accounts into which the dealer deposits any funds received or handled by the dealer or in the course of business as a dealer from consignment sale of vehicles at such times as the department may direct.

(g) Takes any part of any money paid to the dealer in connection with any consignment transaction as part or all of the dealer's commission or fee until the transaction has been completed or terminated.

(h) Does not make arrangement for the disposition of money from a consignment transaction with the seller at the time of establishing a consignment agreement.

(i) Sells a vehicle that the dealer has taken on consignment without first giving the purchaser the following disclosure in writing:

DISCLOSURE REGARDING
CONSIGNMENT SALE

_____ (Name of Dealer) is selling the following described vehicle: _____ (Year) _____ (Make) _____ (Model) _____ (Vehicle Identification Number) on consignment.

[ ] There is a security interest in this vehicle.

[ ] There is not a security interest in this vehicle.

YOU SHOULD TAKE ACTION TO ENSURE THAT ANY SECURITY INTERESTS ARE RELEASED AND THAT THE TITLE TO THE VEHICLE IS TRANSFERRED TO YOU. OTHERWISE, YOU MAY TAKE TITLE SUBJECT TO ANY UNSATISFIED SECURITY INTERESTS.

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(2) The offense described in this section does not apply if the person takes a vehicle on consignment from an entity other than a retail customer and the person holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040 and operates a:

(a) Wholesale vehicle auction company; or

(b) National auction company whose primary activity in this state is the sale or disposition of totaled vehicles.

(3) The offense described in this section, illegal consignment practices, is a Class A misdemeanor.

(4) The department shall adopt rules to carry out the provisions of this section, including but not limited to rules to specify which persons may take and sell vehicles on consignment and to regulate the taking and selling of vehicles on consignment from other jurisdictions. [1985 c.16 §398; 1991 c.873 §46; 1993 c.180 §3; 1993 c.233 §73; 1997 c.834 §2; 2007 c.371 §1; 2009 c.551 §4; 2019 c.346 §1]

822.065 Violation of consigned vehicle transfer; penalty. (1) A person commits the offense of violation of a consigned vehicle transfer if the person consigns a vehicle to a vehicle dealer issued a certificate under ORS 822.020 and the person fails or refuses to deliver the certificate of title or other primary ownership document for the vehicle to the dealer or purchaser upon sale of the vehicle under consignment or, if there is no certificate of title or primary ownership record in the form of a document, fails to comply with rules of the Department of Transportation on consignment.

(2) The offense described in this section, violation of a consigned vehicle transfer, is a Class A misdemeanor. [1985 c.16 §399; 1991 c.873 §47; 1993 c.233 §74]

822.070 Conducting illegal vehicle rebuilding business; penalty. (1) A person commits the offense of conducting an illegal vehicle rebuilding business if the person is not the holder of a valid current dealer certificate issued under ORS 822.020 and the person does any of the following as part of a business:

(a) Buys, sells or deals in assembled, reconstructed or substantially altered motor vehicles.

(b) Engages in making assembled, reconstructed or substantially altered vehicles from motor vehicle components.

(2) This section does not apply to the following persons or vehicles:

(a) An insurance adjuster authorized to do business under ORS 744.515 or 744.521 who is disposing of vehicles for salvage.

(b) Vehicles or persons exempt from the vehicle dealer certificate requirements by ORS 822.015 (1)(a) or (i).

(c) Motor vehicles that are not of a type required to be registered under the vehicle code.

(d) The holder of a dismantler certificate issued under ORS 822.110.

(3) The offense described in this section, conducting an illegal vehicle rebuilding business, is a Class A misdemeanor. [1985 c.16 §400; 1997 c.469 §9; 2003 c.655 §134; 2005 c.654 §18; 2009 c.551 §5; 2015 c.111 §2; 2019 c.151 §44]

822.075 [1991 c.541 §6; repealed by 2003 c.655 §143]

822.080 Procedures for civil penalties imposed under ORS 822.009; disposition of moneys. (1) Civil penalties under ORS 822.009 shall be imposed in the manner provided in ORS 183.745.

(2) An application for a hearing on a civil penalty imposed under ORS 822.009:

(a) Must be in writing;

(b) Must be postmarked or received by the Department of Transportation within 20 days from the date of service of the notice provided for in ORS 183.745;

(c) Must state the name and address of the person requesting a hearing; and

(d) Must state the action being contested.

(3) Hearings on civil penalties imposed under ORS 822.009 shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(4) The department may, at its option, assign any unpaid civil penalty to the Department of Revenue for collection. The Department of Revenue shall deduct reasonable expenses from any amounts collected.

(5) All civil penalties received under ORS 822.009 shall be paid into the State Treasury each month and credited to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2). [1991 c.541 §§5,11; 1993 c.741 §87; 1999 c.849 §§199,200; 2001 c.820 §§7,8; 2003 c.75 §70; 2003 c.655 §§135,136]

(Recreational Vehicle Dealers)

822.082 "Recreational vehicle service facility" defined; display of location. (1) As used in this section, "recreational vehicle service facility" means a permanent facility listed on the vehicle dealer's certificate and having the primary purpose of servicing and repairing recreational vehicles.

(2) A business that sells a new recreational vehicle must prominently display at the sale site the name under which the business is being conducted and the location of the recreational vehicle service facility that is listed in the dealer certificate application described in ORS 822.025. [2001 c.172 §1]

Note: 822.082 to 822.084 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

822.083 "Show" defined; conditions for participation in show. (1) As used in this section, "show" means a site where recreational vehicles are temporarily displayed and offered for sale. "Show" does not include a site that is used to display recreational vehicles for more than 10 days or that is a place of business listed on a supplemental certificate issued under ORS 822.040.

(2) A recreational vehicle dealer may not participate in a show conducted at a site that is more than 50 miles from the dealer's place of business listed in the dealer certificate application described in ORS 822.025 unless the show includes a display by at least two recreational vehicle dealers and the dealer obtains a show license from the Department of Transportation as described in ORS 822.084. [2001 c.172 §2]

Note: See note under 822.082.

822.084 Show license; fee; rules. (1) A person who organizes a show, as defined in ORS 822.083, shall apply to the Department of Transportation at least 30 days prior to the commencement of the show for a show license for each recreational vehicle dealer participating in the show. The application must include for each dealer participating in the show the name under which the business is being conducted and the street address, city and county of the dealer's place of business, both as listed in the dealer certificate application described in ORS 822.025.

(2) A person who receives a show license from the department shall pay the fee for a show license established under ORS 822.700.

(3) The department may adopt all rules necessary and proper for the administration and enforcement of ORS 822.082 to 822.084. [2001 c.172 §3; 2013 c.372 §1]

Note: See note under 822.082.

822.086 New recreational vehicle sales; warranty statement. (1) As used in this section:

(a) "Living area components" means flooring, roofing, building envelope, plumbing systems, electrical systems and heating and air conditioning systems.

(b) "Recreational vehicle" has the meaning given that term in ORS 174.101.

(2) The seller of a new recreational vehicle shall provide the buyer with written information listing each living area component item or system mentioned in subsection (1)(a) of this section, stating whether the component item or system is covered by a warranty and, if so, the extent and length of the warranty. [2019 c.585 §5; 2019 c.585 §5a]

Note: 822.086 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 822 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

SUBLEASING VEHICLES

822.090 Unlawful subleasing of motor vehicle; penalty. (1) A person commits the offense of unlawful subleasing of a motor vehicle if:

(a) The person transfers or assigns, purports to transfer or assign or knowingly assists in the transfer or assignment or purported transfer or assignment of any right or interest in the motor vehicle or under the lease contract or security agreement to a person who is not a party to the lease contract or security agreement;

(b) The motor vehicle is subject to a lease contract or security agreement that prohibits the transfer or assignment of any right or interest in the motor vehicle or any right under the lease contract or security agreement;

(c) The person is not a party to the lease contract or security agreement;

(d) The person does not obtain, prior to the transfer or assignment, written consent from the lessor or secured party as appropriate; and

(e) The person receives compensation or other consideration for the transfer or assignment.

(2) The offense described in this section, unlawful subleasing of a motor vehicle, is a Class A misdemeanor. [1993 c.464 §3]

TRANSFER OF VEHICLES BY LIEN CLAIMANTS

822.093 Sale of vehicles involving possessory liens; records; rules; penalty. (1) Notwithstanding ORS 822.015 (1)(k) or (L), a lien claimant who sells or offers for sale vehicles being sold to foreclose possessory liens, or sells or offers for sale vehicles acquired through possessory liens, shall keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records kept in accordance with this subsection must be made available to the Department of Transportation on request.

(2) The department may adopt such rules as are necessary to carry out the provisions of this section, including but not limited to rules that:

(a) Specify the form in which the records must be kept, how the records must be maintained and the period for which they must be retained.

(b) Specify how the records will be provided to the department if requested.

(c) Specify how lien claimants will notify the department when vehicles are sold to foreclose possessory liens and when vehicles acquired through possessory liens are sold.

(3) Rules adopted under this section shall be developed in consultation with representatives of those lien claimants who may be affected by this section, including but not limited to towing business operators.

(4) The department may impose a civil penalty, in an amount not to exceed $1,000 for each violation, against any person who violates this section or any rules adopted by the department under this section. Civil penalties shall be imposed as provided in ORS 183.745. [2003 c.459 §3; 2009 c.551 §6; 2015 c.111 §3]

822.094 Transfer by lien claimant. A sale, consignment or other transfer by a lien claimant does not constitute a sale for purposes of ORS 822.015 (1)(L) if the sale, consignment or other transfer is to the holder of a current, valid dismantler certificate issued under ORS 822.110 or to the holder of a current, valid vehicle dealer certificate issued under ORS 822.020. [2003 c.459 §4; 2005 c.654 §34; 2009 c.551 §7; 2015 c.111 §4]

DISMANTLERS

822.100 Conducting a motor vehicle dismantling business without a certificate; penalties. (1) A person commits the offense of conducting a motor vehicle dismantling business without a certificate if the person performs any actions of a dismantler and is not the holder of a valid, current dismantler certificate issued under ORS 822.110.

(2) The offense described in this section does not apply to persons or vehicles exempted from this section under ORS 822.105.

(3) The offense described in this section, conducting a motor vehicle dismantling business without a certificate, is a Class A misdemeanor.

(4) In addition to the penalty described in subsection (3) of this section, the Department of Transportation may impose a civil penalty of not more than $5,000 on a person who conducts a motor vehicle dismantling business without a certificate. A civil penalty under this subsection shall be imposed in the manner provided in ORS 183.745. [1983 c.338 §800; 2005 c.654 §7]

822.105 Exemption from certificate requirement. In addition to exemptions from the vehicle code under ORS 801.026, ORS 822.100 does not apply to the following:

(1) An insurance adjuster authorized to do business under ORS 744.515 or 744.521 who is disposing of vehicles for salvage.

(2) Road rollers, farm tractors, trolleys or traction engines.

(3) Implements of husbandry, well-drilling machinery and wheelchairs.

(4) Golf carts. [1983 c.338 §801; 1985 c.598 §9; 1999 c.180 §1; 2003 c.655 §137; 2007 c.70 §351; 2019 c.151 §45]

822.110 Dismantler certificate; refusal to issue; duplicate certificate. (1) Except as provided in subsection (2) of this section, the Department of Transportation shall issue a dismantler certificate to any person if the person meets all of the following requirements:

(a) The person establishes that the area in which the business is located and the place of business to be approved under the dismantler certificate for use in the motor vehicle dismantling business are zoned for industrial use or subject to another zoning classification that permits the type of business conducted by the dismantler.

(b) The person pays the fee required under ORS 822.700 for issuance of a dismantler certificate.

(c) The person completes the application for a dismantler certificate described under ORS 822.115.

(d) The person delivers to the department any approvals by local governments required under ORS 822.140.

(e) The person delivers to the department a bond or letter of credit that meets the requirements of ORS 822.120.

(2) The department may refuse to issue a dismantler certificate to a person if:

(a) The person has previously had a dismantler certificate or identification card revoked, canceled or suspended under ORS 822.145; or

(b) The department determines that the application contains false or misleading information.

(3) The department may issue a duplicate dismantler certificate to a person who has lost or destroyed an original dismantler certificate if the person:

(a) Has complied with the requirements of this section for issuance of a certificate; and

(b) Is within the renewal period of the original dismantler certificate. [1983 c.338 §802; 1985 c.16 §401; 1991 c.331 §139; 1993 c.741 §88; 2005 c.654 §8]

822.115 Application contents. An application for a dismantler certificate issued by the Department of Transportation under ORS 822.110 or for renewal of a certificate under ORS 822.125 shall be in a form prescribed by the department and shall contain all of the following:

(1) A full statement of the name of the person applying for the certificate with the person's residence and business addresses.

(2) If the applicant is a firm or partnership, the name of the firm or partnership, with the names and places of residence of all its members.

(3) If the applicant is a corporation, the names of the principal officers and their residences and the name of the state under whose laws the corporation is organized.

(4) A description of the dimensions and the location of the place or places at which the business is to be carried on and conducted.

(5) The applicant's National Motor Vehicle Title Information System identification number.

(6) A fire response plan that is approved by the department. If the plan is disapproved, the applicant may revise the plan to comply with requirements of the department and resubmit the plan.

(7) A description of any applicable permits that are required by the Department of Environmental Quality.

(8) Any other relevant information required by the Department of Transportation. [1983 c.338 §803; 1985 c.16 §402; 1987 c.261 §9; 1993 c.751 §85; 2005 c.654 §9; 2011 c.433 §1; 2019 c.630 §4]

822.120 Bond or letter of credit requirements; action against certificate holder and surety. (1) A bond or letter of credit required to qualify for a dismantler certificate under ORS 822.110 or renewal of a certificate under ORS 822.125 must be:

(a) With a corporate surety licensed to transact business within this state, or as to a letter of credit, an irrevocable letter of

credit issued by an insured institution, as defined in ORS 706.008;

(b) Executed to the State of Oregon;

(c) In the sum of $100,000;

(d) Approved as to form by the Attorney General;

(e) Conditioned that the person issued the dismantler certificate will conduct business without violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150; and

(f) Conditioned that the bond or letter of credit is subject to an action under this section.

(2) Any person shall have a right of action against the holder of a dismantler certificate and the surety on the holder's bond or the dismantler's letter of credit issuer if the person suffers any loss or damage by reason of the certificate holder's violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150. [1983 c.338 §804; 1985 c.16 §403; 1985 c.176 §3; 1991 c.331 §140; 1991 c.820 §17; 1991 c.873 §48; 1997 c.631 §557; 2005 c.654 §10; 2019 c.630 §7]

Note: The amendments to 822.120 by section 7, chapter 630, Oregon Laws 2019, apply to dismantler certificates issued or renewed on or after May 1, 2020. See section 10, chapter 630, Oregon Laws 2019. The text that is applicable until May 1, 2020, is set forth for the user's convenience.

822.120. (1) A bond or letter of credit required to qualify for a dismantler certificate under ORS 822.110 or renewal of a certificate under ORS 822.125 must be:

(a) With a corporate surety licensed to transact business within this state, or as to a letter of credit, an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008;

(b) Executed to the State of Oregon;

(c) In the sum of $10,000;

(d) Approved as to form by the Attorney General;

(e) Conditioned that the person issued the dismantler certificate will conduct business without violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150; and

(f) Conditioned that the bond or letter of credit is subject to an action under this section.

(2) Any person shall have a right of action against the holder of a dismantler certificate and the surety on the holder's bond or the dismantler's letter of credit issuer if the person suffers any loss or damage by reason of the certificate holder's violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150.

822.125 Privileges granted by certificate; supplemental certificate; duration; renewal; identification cards; rules. (1) The holder of a current, valid dismantler certificate issued under ORS 822.110 is not subject to the prohibitions and penalties under ORS 822.100 as long as the holder's motor vehicle dismantling business is conducted in the location approved under the certificate.

(2) The holder of a dismantler certificate may expand the dimensions or move a place of business approved under the dismantler certificate or open an additional place of business under the certificate upon issuance of a supplemental dismantler certificate by the Department of Transportation. The following apply to supplemental certificates issued under this subsection:

(a) The department shall grant a supplemental certificate upon request of an applicant under this subsection if the applicant obtains local government permission for the supplemental certificate under ORS 822.140.

(b) Upon application for renewal of the supplemental certificate, the department may waive the requirement that an applicant for renewal under this subsection obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a motor vehicle dismantling business.

(c) A fee shall be charged for a supplemental dismantler certificate under ORS 822.700.

(3) A dismantler certificate is valid for a one-year period and may be renewed as provided by the department. The department shall only renew the certificate of any certificate holder who does all of the following:

(a) Pays the required fee for renewal under ORS 822.700.

(b) Completes the application described in ORS 822.115.

(c) Obtains local government approval under ORS 822.140. The department may waive the requirement that an applicant for renewal obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a motor vehicle dismantling business.

(d) Maintains a current bond that meets the requirements under ORS 822.120.

(4) The department may provide the holder of a dismantler certificate with identification cards in the names of the owners of the business or in the names of authorized employees of the business.

(5) The department may adopt suitable rules for the issuance and renewal of dismantler certificates and identification cards. [1983 c.338 §805; 1985 c.16 §404; 1987 c.261 §9a; 2005 c.654 §11; 2019 c.630 §1]

822.130 Inspection of books, records, inventory and premises. (1) The Department of Transportation may inspect the books, records and inventory of any business issued a certificate under ORS 822.110 for the purpose of determining compliance with any of the following:

(a) Those laws regulating the issuance of certificates to dismantlers.

(b) Requirements for records under ORS 822.135 and 822.137.

(c) ORS 802.200, 803.140, 819.010, 819.016, 819.030, 819.040 or 822.120.

(d) Rules adopted by the department concerning businesses issued certificates under ORS 822.110.

(2) Except as provided in subsection (4) of this section, each year the department shall inspect the premises used by any business issued a certificate under ORS 822.110 for the purpose of determining whether the items listed in subsection (3) of this section are on the premises and determining compliance with any of the following:

(a) Those laws regulating the issuance of certificates to dismantlers.

(b) Requirements for records under ORS 822.135 and 822.137.

(c) ORS 802.200, 803.140, 819.010, 819.016, 819.030, 819.040 or 822.120.

(d) Rules adopted by the department concerning businesses issued certificates under ORS 822.110.

(3) If the Department of Transportation determines that any of the following items are on the premises used by a business issued a certificate under ORS 822.110, the Department of Transportation shall submit a report to the Department of Environmental Quality and include information about the following:

(a) The presence of piled waste tires, as defined in ORS 459.705, in an amount greater than 100 waste tires;

(b) If there is a metal shredder;

(c) If there are any open or unlabeled containers of automotive fluids; and

(d) If there is an underground injection control.

(4) The Department of Transportation may inspect a premises under subsection (2) of this section every two years if the three most recent, consecutive inspections show that the business is in compliance with subsection (2)(a) to (d) of this section.

(5) Provisions for enforcing this section are established under ORS 822.135 and 822.145. [1985 c.16 §406; 1991 c.873 §49; 2005 c.654 §12; 2019 c.630 §3]

822.133 Requirements of dismantler operating motor vehicle dismantling business. (1) As used in this section:

(a) "Crushed motor vehicle" means a motor vehicle, the frame or unibody of which is compacted or flattened so that it no longer resembles any particular year, model or make of motor vehicle and is less than half of the motor vehicle's original volume as measured in cubic feet.

(b) "Destroy" means to dismantle, disassemble, damage or substantially alter a motor vehicle:

(A) With the intent of rendering the vehicle permanently inoperable;

(B) To the extent that the cost of repairing the vehicle exceeds the actual cash value of the vehicle prior to the damage; or

(C) To the extent that the sum of the cost of repairing the vehicle and the salvage value of the vehicle in its damaged condition exceeds the actual cash value of the vehicle in its repaired condition.

(c) "Mobile motor vehicle crusher" means a machine that compacts or flattens a motor vehicle into a crushed motor vehicle and is designed to be transported on a highway.

(d) "Wrecked vehicle" means a motor vehicle:

(A) That is destroyed, or is acquired with the intent to destroy, and that will never be operated as a motor vehicle; or

(B) That has sustained damage to an extent that the vehicle may not lawfully be operated on the highways of this state.

(2) In the operation of a motor vehicle dismantling business, a dismantler:

(a) Must physically separate or visually label a wrecked vehicle in a manner that readily identifies the ownership status of the wrecked vehicle if the dismantler takes possession of the wrecked vehicle without immediately obtaining an ownership record or salvage title certificate. A dismantler need not separate or visually identify a wrecked vehicle pursuant to this subsection if the vehicle is subject to an exemption under ORS 803.030 or is obtained from a jurisdiction that does not issue certificates of title.

(b) May not remove parts from or destroy a motor vehicle prior to obtaining an ownership record or salvage title certificate for the vehicle.

(c) Must demolish the registration plates of a wrecked vehicle at the time the ownership record is received.

(d) Must notify the Department of Transportation of any changes in the information provided to the department in the application for a dismantler certificate within 30 days of the change.

(e) Must furnish a written report to the department, in a form established by the department by rule, after a wrecked vehicle is dismantled or destroyed.

(f) Must, every year, have the premises inspected by local fire inspectors and furnish a written report to the department, in a form established by the department by rule, on the findings of the inspection.

(g) Must be in compliance with any agreement with, order of or program or process authorized by the Department of Environmental Quality that governs the conduct of the dismantler.

(3)(a) A dismantler using a mobile motor vehicle crusher shall:

(A) Hold a current, valid dismantler certificate issued under ORS 822.110.

(B) Conspicuously display on the mobile motor vehicle crusher the name of the dismantler's business as listed on the dismantler's application submitted pursuant to ORS 822.110 and the dismantler certificate number issued by the Department of Transportation.

(C) Comply with all of the applicable statutes and rules regulating dismantlers at each location where the dismantler uses the mobile motor vehicle crusher. If the dismantler is using a mobile motor vehicle crusher at a location approved under a dismantler certificate, the dismantler who holds the dismantler certificate for the location shall be responsible for complying with all statutes and rules regarding dismantlers.

(b) If a dismantler is using a mobile motor vehicle crusher at a temporary location for 15 consecutive business days or less, the dismantler is exempt from obtaining a supplemental dismantler certificate under ORS 822.125 for the temporary location. [2005 c.654 §6; 2011 c.433 §2; 2019 c.630 §6]

822.135 Improperly conducting motor vehicle dismantling business; penalty. (1) A person commits the offense of improperly conducting a motor vehicle dismantling business if the person holds a dismantler certificate issued under ORS 822.110 and the person does any of the following:

(a) Fails to permanently exhibit a dismantler certificate at a place of business of the person at all times while the certificate is in force.

(b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental dismantler certificate by the procedure under ORS 822.125.

(c) Fails to maintain records at the person's established place of business that record and describe the following:

(A) Every motor vehicle purchased, transferred, wrecked, dismantled, disassembled or substantially altered by the person;

(B) The name and address of the person to and from whom the vehicle was transferred;

(C) The vehicle identification number and other identification marks or numbers on the vehicle; and

(D) A statement indicating any such numbers or marks that have been obliterated, defaced or changed.

(d) Except as otherwise provided, fails to surrender to the Department of Transportation, within 30 days after the date the person acquires the title, a certificate of title or other primary ownership document or ownership record for a motor vehicle. If the vehicle is delivered to the person under the provisions of ORS 819.215 or 819.280, a copy of the notification to the department under ORS 819.215 or 819.280 is sufficient to comply with the provisions of this paragraph.

(e) Refuses, at any time, to allow a police officer or an employee of the department to inspect the books, records, inventory or premises of the person's motor vehicle dismantling business.

(f) Fails to maintain, for the purposes of the person's motor vehicle dismantling business, a building or an enclosure or other barrier at least six feet in height that is constructed, established or formed in compliance with rules adopted by the department.

(g) Fails to keep the premises on the outside of the establishment clear and clean at all times.

(h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.

(i) Stores or displays any motor vehicles or major component parts or conducts the motor vehicle dismantling business outside of the building, enclosure or barrier of the place of business.

(j) Fails to immediately file with the department, upon transfer of a wrecked or dismantled motor vehicle, the form furnished by the department to report the date of transfer, a description of the vehicle, the name and address of the purchaser and other information respecting the vehicle required by the department.

(k) Except as otherwise provided in this paragraph, fails to keep the business hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other appropriate means so as not to be visible from the main traveled way of the highway in accordance with the rules of the Director of Transportation. This paragraph does not apply to a business that is:

(A) Located in an area zoned for industrial use under authority of the laws of this state; or

(B) A business established before June 30, 1967.

(L) Expands or moves any place of business approved under a dismantler certificate or opens any additional locations for the business without obtaining a supplemental certificate under ORS 822.125 or obtaining an additional dismantler certificate.

(m) Fails to allow the department to conduct inspections as provided under ORS 822.130.

(n) Fails to deploy or remove any air bag containing sodium azide from a vehicle before the vehicle is wrecked or dismantled.

(o) Fails to ensure that an air bag containing sodium azide that has been removed from a vehicle is deployed within seven days of removal unless the air bag is properly stored by a motor vehicle dealer, automobile repair facility or dismantler certified under ORS 822.110.

(2) The offense described in this section, improperly conducting a motor vehicle dismantling business, is a:

(a) Class A misdemeanor if the person violates subsection (1)(a) to (m) of this section.

(b) Class D violation if the person violates subsection (1)(n) or (o) of this section.

(c) Class C misdemeanor, notwithstanding paragraph (b) of this subsection, if the person violates subsection (1)(n) or (o) of this section and the person has two or more previous convictions for violating subsection (1)(n) or (o) of this section. [1983 c.338 §806; 1985 c.16 §407; 1985 c.400 §6; 1991 c.820 §18; 1991 c.873 §50; 1993 c.233 §75; 1993 c.326 §8; 1993 c.741 §89; 2005 c.514 §1; 2005 c.654 §13a; 2005 c.738 §5; 2007 c.683 §3]

822.137 Dismantler conduct resulting in civil penalty; rules. (1) As used in this section, "major component part" includes significant parts of a motor vehicle such as engines, short blocks, frames, transmissions, transfer cases, cabs, doors, differentials, front or rear clips, quarter panels, truck beds or boxes, hoods, bumpers, fenders and airbags. The Department of Transportation may by rule designate other motor vehicle parts not specified in this subsection as major component parts. "Major component part" does not include cores or parts of cores that require remanufacturing or that are limited in value to that of scrap metal.

(2) In addition to any other penalty provided by law, the department may impose on a dismantler, in the manner provided by ORS 183.745, a civil penalty not to exceed $1,000 per violation if the dismantler:

(a) Acquires a motor vehicle or major component part without obtaining a certificate of sale and, if applicable, a certificate of title.

(b) Possesses, sells or otherwise disposes of a motor vehicle or any part of a motor vehicle knowing that the vehicle or part has been stolen.

(c) Sells, buys, receives, conceals, possesses or disposes 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.

(d) Commits forgery in the second degree, as defined in ORS 165.007, or misstates 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.

(e) Fraudulently obtains, creates or modifies a dismantler certificate.

(f) Fails to maintain records at the certified place of business for three years from the date of acquisition of a motor vehicle that describe and identify the vehicle, including:

(A) The certificate of title number;

(B) The state where the vehicle was last registered, if applicable;

(C) The number of the last registration plate issued and the state of issuance, if applicable;

(D) The year, make and model of the vehicle;

(E) The vehicle identification number;

(F) The date acquired;

(G) The vehicle, stock or yard number assigned to the vehicle by the dismantler; and

(H) Any other information required by the department.

(g) Fails to maintain records at the certified place of business for three years from the date of acquisition of a major component part that describe and identify the part, including:

(A) The physical characteristics of the part;

(B) The stock or yard number assigned to the part by the dismantler;

(C) The vehicle identification number of the motor vehicle from which the part came; and

(D) Any other information required by the department.

(h) Commits a dishonest act or omission during the sale of a motor vehicle or major

component part that, as determined by the department, causes a loss to the purchaser.

(i) Is 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.

(j) Fails to comply with any provision of ORS 822.133. [2005 c.654 §5; 2007 c.683 §4]

822.140 Local government approval requirements. (1) To meet the requirement for local government approval of a dismantler certificate under ORS 822.110 or a supplemental certificate under ORS 822.125, an applicant must comply with any regulations established by a city or county under this section and must obtain the approval of the governing body of the:

(a) City, if the business is or will be carried on within an incorporated city of less than 100,000 population.

(b) County, if the business is or will be carried on outside of any incorporated city.

(2) A city or county governing body shall grant approval of a dismantler certificate or renewal when requested under this section if the governing body:

(a) Approves the applicant as being suitable to establish, maintain or operate a motor vehicle dismantling business;

(b) Determines that the location or proposed location meets the requirements for location under ORS 822.110;

(c) Determines that the location does not violate any prohibition under ORS 822.135; and

(d) Approves the location and determines that the location complies with any regulations adopted by a city or county under this section.

(3) The governing body of a city or county may regulate the expansion of premises or the establishment of premises at a new location under a dismantler certificate. An applicant must comply with the regulations before the Department of Transportation may issue a supplemental dismantler certificate. In adopting regulations under this subsection, a governing body:

(a) Shall consider the extent of development of surrounding property as a residential area;

(b) Shall consider the proximity of churches, schools, hospitals, public buildings or other places of public gathering;

(c) Shall consider the sufficiency in number of other motor vehicle dismantling businesses in the vicinity;

(d) Shall consider the health, safety and general welfare of the public;

(e) May establish zones in which motor vehicle dismantling businesses are permissible and other zones where they are prohibited; and

(f) May prescribe limitations on the dimensions of the premises on which motor vehicle dismantling businesses are conducted.

(4) Regulations of a city governing body that are adopted under this section apply to motor vehicle dismantling businesses located outside of and within six miles of the boundaries of the city unless the county governing body in which the area is located has adopted regulations under this section that are applicable in the area.

(5) Before granting approval for a supplemental dismantler certificate, the governing body of a city or county shall notify all property owners that are or that will be adjacent to the motor vehicle dismantling business once the business moves, expands or opens an additional place of business. [1983 c.338 §807; 1985 c.16 §408; 2005 c.654 §14; 2019 c.630 §8]

822.145 Imposition of sanctions; rules. (1) In addition to any other penalty provided by law, the Department of Transportation may impose sanctions on any person holding a dismantler certificate issued under ORS 822.110 or identification card or supplemental dismantler certificate issued under ORS 822.125 including, but not limited to, probation or suspension, revocation or cancellation of the dismantler certificate or identification card if the department determines at any time for due cause that any of the following has occurred:

(a) The person holding the certificate has failed to comply with any requirements for registration of vehicles under the vehicle code.

(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.

(c) The person holding the certificate has caused or suffered or is permitting the unlawful use of the dismantler certificate.

(d) The person holding the certificate has violated any regulation adopted under ORS 822.135.

(e) The person holding the certificate has failed to allow the department to conduct inspections as provided under ORS 822.130.

(f) The person holding an identification card has unlawfully used or permitted unlawful use of the card.

(g) The person holding the certificate is convicted of an offense under ORS 468.922,

468.926, 468.929, 468.931, 468.936, 468.939, 468.943 or 468.946.

(2) The department shall cancel or suspend any dismantler certificate immediately:

(a) Upon receipt of legal notice that the bond described under ORS 822.120 is canceled; or

(b) For failure to pay any penalty imposed under ORS 822.135 or 822.137.

(3) Upon revocation, cancellation or suspension of a dismantler certificate or identification card under this section, the department shall recall and demand the return of the certificate or identification card.

(4) If the department has reason to believe that a person has engaged in or is engaging in any activity prohibited under ORS 822.100, the department may issue an order directed at the person to cease the activity.

(5) The department shall adopt rules establishing sanctions authorized by subsection (1) of this section. [1983 c.338 §808; 1985 c.16 §409; 1985 c.176 §4; 1987 c.261 §9b; 1991 c.820 §19; 1991 c.873 §51; 2005 c.654 §15; 2007 c.683 §2; 2011 c.433 §3; 2019 c.630 §5]

822.150 Failure to return revoked, canceled or suspended certificate or identification card; penalty. (1) A person commits the offense of failure to return a revoked, canceled or suspended dismantler certificate or identification card if the Department of Transportation recalls and demands the person to return a certificate or card under ORS 822.145 and the person does not return the certificate or card to the department.

(2) The offense described in this section, failure to return a revoked, canceled or suspended dismantler certificate or identification card, is a Class A misdemeanor. [1983 c.338 §809; 1987 c.261 §9c; 2005 c.654 §35]

TOWING BUSINESSES

822.200 Operating illegal towing business; exceptions; penalties. (1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate issued under ORS 822.205 and the person does any of the following:

(a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovery activity.

(b) Engages in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles.

(c) Purports in any way to be engaged in the business of performing activities described in this subsection.

(2) This section does not apply to any of the following:

(a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310.

(b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

(c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.

(d) An employee of a person issued a towing business certificate under ORS 822.205 while that employee is performing official duties as an employee.

(e) A person who holds a valid dismantler certificate under ORS 822.110 who tows a vehicle described under ORS 819.280.

(3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor. [1983 c.338 §811; 1985 c.16 §410; 2005 c.738 §§6,6a]

822.205 Certificate; qualifications; fee. The Department of Transportation shall issue a towing business certificate to any person if the person meets all of the following requirements to the satisfaction of the department:

(1) The person must complete an application in a form and in the manner established by the department by rule.

(2) The person must maintain insurance in amounts and providing coverage of the type required for motor carriers under ORS chapter 825 and deliver a certificate of insurance to the department.

(3) The certificate of insurance required under subsection (2) of this section must:

(a) Be issued by an insurance company licensed to do business in this state;

(b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;

(c) Contain the policy number; and

(d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.

(4) The person must maintain insurance providing $50,000 coverage for cargo transported by the person and deliver a certificate

of insurance to the department. An applicant is not required to comply with this subsection if the applicant tows or recovers only vehicles that are owned by the applicant.

(5) The person must maintain vehicles used by the person for the purposes of towing or recovering services so that they meet minimum safety standards established by the department by rule. The department may accept the certification of the person as evidence of compliance with this subsection or may require other evidence, as the department determines appropriate.

(6) The certificate of insurance required under subsection (4) of this section must:

(a) Be issued by an insurance company licensed to do business in this state;

(b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;

(c) Contain the policy number; and

(d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.

(7) The person must pay the fee required under ORS 822.700 for issuance of a towing business certificate. [1983 c.338 §813; 1985 c.16 §412; 1985 c.400 §7; 1993 c.751 §86; 2007 c.538 §16]

822.210 Privileges granted by certificate; duration; renewal; regulation of holder. (1) The holder of a current, valid towing business certificate issued under ORS 822.205 may exercise the following privileges under the certificate:

(a) The person and any employee of the person who is performing official duties are not subject to the prohibitions and penalties under ORS 822.200.

(b) The person is entitled to receive special indicia of towing business registration. The following apply to indicia described in this paragraph:

(A) The holder of the certificate or a person in the performance of the person's official duties as an employee of the certificate holder may use the indicia:

(i) For towing and recovering vehicles; and

(ii) For towing unregistered vehicles over the highways of this state without first obtaining registration for the vehicles or trip permits required under ORS 803.600.

(B) The indicia shall be of the design provided under ORS 805.200 and are subject to payment of fees for issuance as provided under ORS 805.250.

(2) A towing business certificate expires one year from the date of issuance unless renewed. A certificate holder may renew the certificate by payment of the fee for renewal of a towing business certificate under ORS 822.700. A person whose certificate expires must qualify for a certificate in the same manner as a person who has not previously held a certificate.

(3) The holder of a towing business certificate is subject to regulation by political subdivisions as provided in ORS 801.040 and 822.230, and to regulation under ORS chapter 825. [1983 c.338 §812; 1985 c.16 §411; 1987 c.765 §4; 1993 c.741 §144; 1995 c.733 §78]

822.213 Transporting property for hire. (1) In addition to the privileges described under ORS 822.210, the holder of a current, valid towing business certificate issued under ORS 822.205 may use a tow vehicle to transport property for hire other than as described in ORS 822.210 if:

(a) The tow vehicle is used primarily for the purposes described in ORS 822.210 in a manner specified by the department by rule;

(b) The tow vehicle has a combined weight of 26,001 pounds or more;

(c) The holder of the towing business certificate has submitted a declaration of weight under ORS 803.435 and has registered the tow vehicle under ORS 803.420 (14)(a); and

(d) The holder of the towing business certificate operates in accordance with the provisions of ORS chapter 825.

(2) A tow vehicle that is used to transport property for hire other than as described in ORS 822.210 is subject to the weight-mile tax imposed under ORS 825.474. [2011 c.287 §2; 2017 c.750 §39t]

Note: 822.213 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

822.215 Grounds for denial, suspension, revocation or refusal of certificate. The Department of Transportation may deny or refuse to issue any towing business certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:

(1) Used fraud or deception in securing the certificate.

(2) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also

own the vehicle. This subsection does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.

(3) Used vehicles for the purposes of towing or recovering services that did not meet the minimum safety standards established by the department.

(4) Failed to display special towing business registration plates, stickers or indicia or identification devices for proportionally registered tow vehicles authorized under ORS 805.200 on each vehicle used to tow or recover vehicles.

(5) Failed to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205.

(6) Failed to obtain any permits or authority required under any provision of ORS chapter 825 or rules adopted thereunder.

(7) Violated any provision of ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864. [1983 c.338 §814; 1991 c.284 §30; 1993 c.741 §145; 2007 c.538 §17; 2017 c.480 §19]

822.217 Proportional registration for tow vehicles; rules. (1) Any person who qualifies under ORS 822.205 for a towing business certificate may choose to register qualified vehicles under the proportional registration provisions of ORS 826.009 or 826.011. Except as otherwise provided in this section, tow vehicles registered under ORS 826.009 or 826.011 are subject to the same requirements, conditions and privileges as other vehicles registered under those sections. Tow vehicle proportional registration is subject to the following:

(a) In addition to any application for registration required by ORS 826.009 or 826.011, the applicant must certify in a manner determined by the Department of Transportation by rule that the applicant meets the qualifications specified in ORS 822.205.

(b) The applicant must hold a towing business certificate issued under ORS 822.205.

(c) In addition to any application for renewal of registration required by ORS 826.009 or 826.011, in order to renew proportional registration for a tow vehicle, the applicant shall certify to the department that the applicant meets the qualifications specified in ORS 822.205.

(d) The department shall issue appropriate identification devices for proportionally registered tow vehicles. The design for such devices shall be as determined by the department by rule and the fees for such devices are as provided in ORS 803.577.

(e) An identification device for proportionally registered tow vehicles is subject to cancellation as provided in ORS 822.218.

(2) A vehicle that has been issued tow vehicle proportional registration may be used only for the purposes described in ORS 822.210. Violation of this subsection is punishable as provided in ORS 822.200 for operating an illegal towing business. [1991 c.284 §28]

822.218 Cancellation of identification device for proportionally registered tow vehicle. (1) The Department of Transportation shall have the authority to investigate and verify information provided in conjunction with application for proportional registration of a tow vehicle under ORS 822.217. The department may cancel an identification device for a proportionally registered tow vehicle if the department determines that the owner or lessee of the vehicle, or an employee of either, has:

(a) Operated the vehicle in violation of tow vehicle registration limits;

(b) Falsely certified an application required by ORS 822.217 for registration or renewal of registration of a proportionally registered tow vehicle; or

(c) Falsely completed an application under ORS 822.205 for a towing business certificate.

(2) If a tow vehicle proportional registration identification device is canceled under this section, the vehicle is not eligible for registration under ORS 822.205 for a period of one year after the cancellation. [1991 c.284 §29]

822.220 Authorization to obstruct traffic; failure to take precautions; penalty. (1) The operator of a wrecker or tow vehicle may stop the wrecker or tow vehicle where it obstructs traffic when the operator:

(a) Is engaged in the salvaging of another vehicle; and

(b) Takes the precautionary measures required by this section.

(2) A person commits the offense of failure to take precautions when obstructing traffic with a tow vehicle or wrecker if the person is operating a wrecker or tow vehicle engaged in the salvaging of another vehicle and the operator does not do all of the following:

(a) Determine that the salvaging operation requires stopping the wrecker or tow vehicle in the roadway.

(b) Place warning signs or signals as prescribed under ORS 815.070 at a suitable distance in each direction upon the roadway.

(c) Activate tow vehicle warning lights described in ORS 816.280.

(3) The offense described in this section, failure to take precautions when obstructing traffic with a tow vehicle or wrecker, is a Class D traffic violation. [1983 c.338 §815; 1985 c.71 §9]

822.225 Failure to remove injurious substance; penalty. (1) A person commits the offense of tow vehicle operator failure to remove injurious substance if the person is operating a tow vehicle that is removing a wrecked or damaged vehicle from a highway and the person fails to remove any glass or other injurious substance dropped upon the highway from such vehicle.

(2) The offense described in this section, tow vehicle operator failure to remove injurious substance, is a Class D traffic violation. [1983 c.338 §816; 1985 c.71 §10; 1995 c.383 §115]

822.230 City or county regulation of towing businesses. (1) Notwithstanding ORS 822.200 to 822.225, and except as provided in subsection (2) of this section, a city or county may, by charter or ordinance, regulate towing businesses if the city or county charter or ordinance provisions pertain only to towing authorized by ORS 98.812 and the provisions:

(a) Regulate an aspect of a towing business that is not regulated by ORS 822.200 to 822.225; or

(b) Regulate an aspect of the towing business that is regulated by ORS 822.200 to 822.225 and the provisions of the charter or ordinance are more stringent than those of the statutes.

(2) This section does not authorize imposition of any license fee or tax on a towing business by a city or county.

(3) The governing body of a city or county may adopt ordinances that include, but are not limited to, the following requirements:

(a) That towing businesses accept methods of payment other than and in addition to cash.

(b) That towing businesses post fees in a conspicuous place at the location of the towed vehicles.

(c) That any posted signs that warn of the possibility of towing or that give information about recovery of a towed vehicle be prominently displayed and show the fees charged to recover a towed vehicle.

(d) That towing businesses offer transportation at a reasonable cost from within the immediate vicinity of the place from which the vehicle was towed to the towed vehicle.

(e) That towing businesses establish locations for towed vehicles in such a way that no vehicle will be towed a greater distance than is necessary and reasonable.

(f) That towed vehicles be stored in a public location that has at least one attendant on duty at all times. [1987 c.765 §2]

822.235 Recovery after theft. (1) If a tower recovers a vehicle after a theft, the vehicle is totaled and the vehicle has no applicable insurance coverage, the person who is the owner of the vehicle may transfer the person's interest in the vehicle to the tower in payment or partial payment of the tower's fees for recovery and storage of the vehicle.

(2) A tower that accepts a transfer of interest in a vehicle from a person under this section may not assess fees against the person for storage of the totaled vehicle that occurs on and after the date of the transfer of interest.

(3) Notwithstanding the provisions for liens under ORS 98.812 and 98.830, if a person transfers their interest in a vehicle under this section to a tower within 14 days of the date the person receives notice under ORS 98.857, the tower may not bring an action against the person for, or otherwise take any affirmative steps to collect or permit an agency or assignee to collect, any amount as compensation for towing, caring for or storing the totaled vehicle.

(4) A tower that receives title under this section is responsible for any fees imposed by the Department of Transportation for transferring title. [2017 c.523 §5; 2019 c.13 §70]

Note: 822.235 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

VEHICLE TRANSPORTERS

822.300 Acting as vehicle transporter without certificate; exemptions; penalty. (1) A person commits the offense of acting as a vehicle transporter without a certificate if the person is not the holder of a vehicle transporter certificate issued under ORS 822.310 and the person drives or tows over the highways of this state:

(a) A vehicle that is:

(A) Required to be registered under the vehicle code;

(B) Driven or towed on its own wheels;

(C) Driven or towed from outside this state or from a manufacturer or vehicle dealer within this state; and

(D) Driven or towed to a prospective purchaser, manufacturer or dealer or the agent thereof either in this state or in any other state, territory or foreign country; or

(b) A manufactured structure.

(2) The offense described in this section does not apply to persons or vehicles exempted from this section under ORS 822.305.

(3) The offense described in this section, acting as a vehicle transporter without a certificate, is a Class D traffic violation. [1983 c.338 §817; 1985 c.16 §413; 1995 c.383 §116; 2003 c.655 §138]

822.305 Exemptions from vehicle transporter certification requirement. In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.300 does not apply to the following:

(1) Vehicles lawfully operated with plates furnished to vehicle dealers under ORS 822.040.

(2) Vehicles lawfully operated with registration plates issued by this state.

(3) Vehicles being towed by other vehicles lawfully operated with plates issued for towing businesses under ORS 822.210. [1983 c.338 §818; 1985 c.16 §414]

822.310 Privileges granted by certificate; duration; renewal; fee; rules; suspension or revocation; regulation of holder. (1) The holder of a current, valid vehicle transporter certificate issued under this section may exercise the following privileges under this certificate:

(a) The person is not subject to the prohibitions and penalties under ORS 822.300 while transporting vehicles as provided under this section.

(b) The person is entitled to apply for and receive a sufficient number of special vehicle transporter plates or devices and may transport vehicles as provided under this section while displaying the plate or device. Only one plate or device shall be displayed on a vehicle. The plates or devices shall require a fee for issuance as provided in ORS 805.250. A plate or device issued under this paragraph may be used on any vehicle transported by the person.

(c) The person may drive or tow on its own wheels over the highways of this state any unregistered vehicle or manufactured structure from outside this state or from manufacturers or dealers within this state to a prospective purchaser, manufacturer or dealer in this or any other state, territory or foreign country. This paragraph only permits the person to transport manufactured structures from the place of manufacture to the place of business of a manufactured structure dealer holding a license under ORS 446.691 or 446.696 or a temporary manufactured structure dealer license under ORS 446.701 or to a place outside of Oregon. Any other movement of a manufactured structure by the person must be under a trip permit issued by a county as agent for the Department of Consumer and Business Services.

(2) The Department of Transportation shall provide for the issuance and renewal of vehicle transporter certificates under this section to persons regularly engaged in businesses that require the certificates.

(3) Vehicle transporter certificates issued under this section are subject to all of the following:

(a) A certificate described in this section is valid for a one-year period and shall be renewed as provided by the department.

(b) The department shall not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.

(4) The department may adopt necessary rules for the administration of the laws relating to the regulation of vehicle transporters, the issuance and renewal of vehicle transporter certificates, the issuance of vehicle transporter identification cards and the issuance of vehicle transporter plates. The rules adopted under this subsection must be consistent with any rules regarding vehicle transporters that are adopted under ORS chapter 825. The rules may include, but are not limited to, grounds and procedures for the revocation, denial or suspension of vehicle transporter certificates and for placing vehicle transporters on probationary status.

(5) A person issued a certificate under this section is subject to regulation under ORS chapter 825. [1983 c.338 §819; 1985 c.16 §415; 1985 c.598 §10; 1987 c.261 §9d; 1993 c.741 §146; 1995 c.733 §79; 1999 c.359 §6; 2003 c.655 §139]

822.315 Improper use of vehicle transporter plate; penalty. (1) A person commits the offense of improperly using a vehicle transporter plate if the person is the holder of a vehicle transporter certificate and the person does any of the following:

(a) Exercises privileges granted under ORS 822.310 for vehicles with special vehicle transporter plates issued under ORS 822.310 without conspicuously displaying the plates on the rear of each vehicle.

(b) Uses a special vehicle transporter plate to transport a manufactured structure to a situs not permitted under the privileges granted under ORS 822.310.

(c) Allows any person other than the transporter or transporter's employee to use the special vehicle transporter plates issued to the transporter under ORS 822.310.

(2) The offense described in this section, improper use of vehicle transporter plates, is a Class D traffic violation. [1983 c.338 §820; 1995 c.383 §117]

822.320 [1983 c.338 §821; 1987 c.261 §9e; repealed by 1999 c.359 §10]

822.325 Failure to return revoked or suspended certificate; penalty. (1) A person commits the offense of failure to return a revoked or suspended vehicle transporter certificate if the Department of Transportation demands and requires the return of any certificate, cards or plates under ORS 822.310 and the person has those items demanded and does not return them to the department.

(2) The offense described in this section, failure to return a revoked or suspended vehicle transporter certificate, is a Class A misdemeanor. [1983 c.338 §822; 1985 c.393 §57; 1987 c.261 §9f; 1999 c.359 §7]

822.400 [1983 c.338 §823; 1985 c.16 §416; repealed by 1987 c.261 §13]

822.405 [1983 c.338 §824; 1985 c.16 §417; repealed by 1987 c.261 §13]

822.410 [1985 c.16 §420; 1987 c.217 §11; repealed by 1987 c.261 §13]

822.415 [1985 c.459 §14; repealed by 1987 c.261 §13]

822.420 [1985 c.459 §15; repealed by 1987 c.261 §13]

DRIVER TRAINING

(Commercial Driver Training Schools)

822.500 Operating commercial driver training school without certificate; rules; penalty. (1) A person commits the offense of operating a commercial driver training school without a certificate if the person is not the holder of a valid, current driver training school certificate issued under ORS 822.515 and the person operates a business or nonprofit enterprise that engages, for a consideration, in educating and training persons, either practically or theoretically, or both, in the driving of motor vehicles.

(2) The offense described in this section does not apply to:

(a) A business or nonprofit enterprise engaged in educating and training persons for a profession;

(b) An accredited secondary school, college or university; or

(c) A person that provides limited education or training for a specialized purpose, as determined by the Department of Transportation by rule.

(3) The offense described in this section, operating a commercial driver training school without a certificate, is a Class A misdemeanor. [1983 c.338 §826; 1985 c.393 §58; 2005 c.155 §1]

822.505 Commercial driver training school bond; requirements; actions against school or surety. (1) A bond required under ORS 822.515 for issuance or renewal of a commercial driver training school certificate must comply with all of the following:

(a) The bond shall have a corporate surety licensed to do business within this state.

(b) The bond shall be executed to the State of Oregon.

(c) The bond shall be in the sum of $2,500.

(d) The bond shall be approved as to form by the Attorney General.

(e) The bond must be conditioned that the person issued the certificate shall conduct business as a commercial driver training school without fraudulent representation and without violation of any rules adopted by the Department of Transportation under ORS 822.515.

(f) The bond must be filed and held in the office of the department.

(2) Any person shall have a right of action against a commercial driver training school and against the surety on the bond of the school in the person's own name if the person suffers any loss or damage by reason of the school's fraudulent representations or violation of rules adopted by the department under ORS 822.515.

(3) If the certificate of a school is not renewed or is revoked or canceled, the sureties on the bond shall be relieved from liability accruing subsequent to cancellation or revocation by the department. [1983 c.338 §827]

822.510 Proof of insurance; requirements; exception. Except as provided in subsection (3) of this section, an applicant or holder of a commercial driver training school certificate may maintain proof of insurance required under ORS 822.515 for issuance or renewal of the certificate by complying with any of the following:

(1) The school may file a certificate of insurance with the Department of Transportation that complies with all of the following:

(a) The insurance must be issued to the school.

(b) The insurance must be issued by an insurance company authorized to do business in this state.

(c) The insurance must show that the insured has procured and has in effect a motor vehicle liability policy that provides at least the following coverage:

(A) $100,000 because of bodily injury to or death of one person in any one accident;

(B) Subject to the limit for one person, $300,000 because of bodily injury to or death of two or more persons in any one accident; and

(C) $50,000 because of injury to or destruction of the property of others in any one accident.

(d) The policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is granted.

(e) The policy shall insure any and all persons using any motor vehicle owned or operated by the school with the consent of the school against loss from the liabilities imposed by law for damages arising out of the operation, use or maintenance of the motor vehicle.

(2) The school may obtain a valid certificate of self-insurance from the department.

(3) An applicant or holder of a commercial driver training school certificate does not need to submit proof of insurance required under ORS 822.515 for issuance or renewal of the certificate if the applicant or holder of the certificate conducts only classroom instruction. [1983 c.338 §828; 2003 c.175 §12; 2009 c.543 §1]

822.515 Certificates; issuance; suspension or revocation; duration; fee; bond; proof of insurance; rules. (1) A person who holds a valid, current commercial driver training school certificate issued under this section is not subject to the prohibitions or penalties under ORS 822.500.

(2) The Department of Transportation shall adopt rules to provide for the issuance of commercial driver training school certificates under this section. Rules adopted by the department under this section shall provide requirements for all of the following:

(a) Requirements for a certificate under this section including requirements concerning manner and form of application, location, place of business, facilities, records, equipment, courses and standards of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character of school operators and instructors, vehicle equipment and condition and inspection during reasonable business hours.

(b) Any other matters the department may prescribe for the protection of the public.

(3) The department:

(a) May refuse to issue or renew or may suspend or revoke any certificate issued under this section in any case where the department finds that the applicant or certificate holder has violated or failed to comply with any rules adopted under this section or any provision of this section, ORS 822.500 to 822.510, 822.525 or 822.530.

(b) Shall cancel immediately any certificate if a bond described under ORS 822.505 is canceled by legal notice.

(4) Commercial driver training school certificates issued under this section are subject to the following:

(a) A certificate shall expire on the last day of each calendar year.

(b) The department shall not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.

(c) The department shall not renew a certificate until the fee for renewal of the certificate under ORS 822.700 has been paid.

(d) A fee for a certificate may not be refunded in the event any certificate is refused, suspended or revoked.

(e) The department shall not issue or renew a certificate unless the applicant or certificate holder maintains a bond that meets the requirements under ORS 822.505.

(f) The department shall not issue or renew a certificate unless the applicant or certificate holder maintains proof of insurance that meets the requirements under ORS 822.510. [1983 c.338 §829; 1985 c.16 §418; 1985 c.598 §11]

822.520 Failure to return revoked, suspended or canceled commercial driver training school certificate; penalty. (1) A person commits the offense of failure to return a revoked, suspended or canceled commercial driver training school certificate if the Department of Transportation revokes, suspends or cancels a commercial driver training school certificate issued to the person under ORS 822.515 and the person does not immediately return the certificate to the department.

(2) The offense described in this section, failure to return a revoked, suspended or canceled commercial driver training school certificate, is a Class A misdemeanor. [1983 c.338 §830; 1985 c.393 §59]

(Driver Training Instructor)

822.525 Acting as driver training instructor without certificate; exemptions; rules; penalty. (1) A person commits the offense of acting as a driver training instructor without a certificate if the person is not the holder of a valid, current driver training instructor certificate issued under ORS 822.530 and the person, for compensation, teaches, conducts classes or gives demonstrations to or supervises practice of persons in the driving of motor vehicles whether acting on the person's own behalf or acting as an operator of or on behalf of any business or nonprofit enterprise or school engaged in educating and training persons, either practically or

theoretically, or both, in the driving of motor vehicles.

(2) The offense described in this section does not apply to a person acting as an operator of or on behalf of:

(a) A business or nonprofit enterprise engaged in educating and training persons for a profession;

(b) An accredited secondary school, college or university; or

(c) A person that provides limited education or training for a specialized purpose, as determined by the Department of Transportation by rule.

(3) The offense described in this section, acting as a driver training instructor without a certificate, is a Class A misdemeanor. [1983 c.338 §831; 1985 c.393 §60; 2005 c.155 §2]

822.530 Certificate; issuance; suspension or revocation; duration; fee; rules. (1) A person who holds a valid, current driver training instructor certificate issued under this section is not subject to the prohibitions or penalties under ORS 822.525.

(2) The Department of Transportation shall adopt rules to provide for the issuance of driver training instructor certificates under this section. Rules adopted by the department under this section shall provide for all of the following:

(a) Requirements for driver training instructor certificate including requirements concerning manner and form of application, moral character, physical condition, knowledge of the courses of instruction, traffic laws, safety principles and practices, driving record, driving ability and previous personal and employment record.

(b) Any other matters the department may prescribe for the protection of the public.

(3) The department may refuse to issue or renew or may suspend or revoke any certificate issued under this section in any case where the department finds that the applicant or certificate holder has violated or failed to comply with any rules adopted under this section.

(4) Driver training certificates issued under this section are subject to the following:

(a) A certificate shall expire on the last day of each calendar year.

(b) The department shall not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.

(c) The department shall not renew a certificate until the fee for renewal of the certificate under ORS 822.700 has been paid.

(d) A fee for a certificate may not be refunded in the event any certificate is refused, suspended or revoked. [1983 c.338 §832; 1985 c.598 §12]

822.535 Failure to return revoked or suspended certificate; penalty. (1) A person commits the offense of failure to return a revoked or suspended driver training instructor certificate if the Department of Transportation revokes or suspends a driver training instructor certificate issued to the person under ORS 822.530 and the person does not immediately return the certificate to the department.

(2) The offense described in this section, failure to return a revoked or suspended driver training instructor certificate, is a Class A misdemeanor. [1983 c.338 §833; 1985 c.393 §61]

GENERAL PROHIBITIONS

822.600 Failure of garage to report accident or bullet contact; penalty. (1) A person commits the offense of failure of a garage to report an accident or bullet contact if the person is in charge of any garage or repair shop to which is brought any motor vehicle that shows evidence of having been involved in a serious accident or struck by any bullet and the person does not report to the nearest police station or sheriff's office within 24 hours after such motor vehicle is received giving the registration number and the name and address of the owner or operator of such vehicle.

(2) An additional report need not be made under this section when the owner of the vehicle is also the owner of the garage or repair shop and the person has made a report under ORS 811.725 or 811.730 that includes the information required by this section.

(3) The offense described in this section, failure of garage to report accident or bullet contact, is a Class A traffic violation. [1983 c.338 §834]

822.605 False swearing relating to regulation of vehicle related businesses; penalty. (1) A person commits the offense of false swearing relating to regulation of vehicle related businesses if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the regulation of vehicle dealers, vehicle dismantlers, towing businesses, vehicle transporters, snowmobile dealers, Class I all-terrain vehicle dealers, commercial driver training schools or driver training instructors under the vehicle code.

(2) The offense described in this section, false swearing relating to regulation of vehicle related businesses, is a Class C felony. [1983 c.338 §836; 1987 c.217 §12; 2005 c.654 §39]

FEES

822.700 Certification fees. (1) Fee for issuance or renewal of dismantler certificates covering a single place of business, or a supplemental certificate for each additional place of business to be covered by that certificate and operated under the same name, $500.

(2) Fee for each duplicate dismantler certificate issued under ORS 822.110, $40.

(3) Fee for original issuance of vehicle dealer certificate under ORS 822.020 or renewal under ORS 822.040 of a vehicle dealer certificate:

(a) $1,100, for a certificate covering a single place of business; and

(b) $350, for each additional place of business to be covered by the certificate and operated under the same name.

(4) Fee for each corrected vehicle dealer certificate issued under ORS 822.040, $30.

(5) If a vehicle dealer or dismantler fails to pay a fee required under this section on or before the date the fee is due, there shall be added as a late payment charge a fee of $150.

(6) Fee for show license issued under ORS 822.084, $50.

(7) Fee for issuance of towing business certificate under ORS 822.205 or renewal under ORS 822.210, $17 for each vehicle used for towing or recovery purposes.

(8) Fee for issuance or renewal of vehicle transporter certificate under ORS 822.310, $150.

(9) Fee for issuance or renewal of driver training instructor certificate under ORS 822.530, $100.

(10) Fee for issuance or renewal of commercial driver training school certificate under ORS 822.515, $200.

(11) Fee for issuance or renewal of vehicle appraiser certificate under ORS 819.480, $100. [1983 c.338 §835; 1985 c.16 §421; 1985 c.459 §16; 1985 c.736 §6; 1987 c.261 §10; 1997 c.469 §10; 1999 c.593 §6; 2001 c.668 §5; 2003 c.655 §140; 2005 c.654 §16; 2007 c.630 §5; 2013 c.372 §2; 2018 c.114 §2; 2019 c.630 §2]

822.705 Fee for issuance or renewal of vehicle dealer certificate. Each person holding or applying for a current vehicle dealer certificate shall pay a fee of $75 to the Department of Transportation upon application for issuance or renewal of a certificate. Moneys from the fee are continuously appropriated to the department for the purpose of carrying out the provisions of ORS 822.007, 822.009 and 822.080. The fee imposed under this section is in addition to fees under ORS 822.700 for issuance and renewal of a vehicle dealer certificate. [1991 c.541 §7; 1999 c.593 §7; 2003 c.655 §141; 2013 c.372 §3]

CIVIL PENALTIES

822.990 Civil penalties for violations of ORS 822.500 and 822.525. (1) The Department of Transportation may levy and collect a civil penalty in the amount of $1,000 for each violation against any person who violates ORS 822.500 or 822.525.

(2) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745. [2001 c.727 §3]

822.992 Civil penalties for violations related to dismantlers. (1) The Department of Transportation may levy a civil penalty on, and collect the civil penalty from, any person holding a dismantler certificate issued under ORS 822.110 or identification card or supplemental dismantler certificate issued under ORS 822.125 in an amount not to exceed $1,000 for each violation if the person holding the certificate has violated ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.130, 822.135 or 822.150.

(2) The department shall impose civil penalties under this section in the manner provided in ORS 183.745. [2011 c.433 §5]

Note: 822.992 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

Chapter 823

2019 EDITION

Carrier Regulation Generally

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GENERAL PROVISIONS

823.005 Definitions for ORS chapters 823 to 826. As used in ORS chapters 823, 824, 825 and 826:

(1) "Customer" includes the patrons, passengers, shippers and users of the service of a motor carrier.

(2) "Rate" means any fare, charge, joint rate, schedule or groups of rates or other remuneration or compensation for service.

(3) "Service" is used in its broadest and most inclusive sense and includes equipment and facilities related to providing the service or the product served. [1995 c.733 §11]

DEPARTMENT POWERS AND DUTIES REGARDING CARRIERS

823.007 Employee statements of pecuniary interests in motor carriers; rules. (1) Each employee of the Department of Transportation who performs functions concerning economic regulation of motor carriers shall file with the department a statement regarding holdings of the employee and the holdings of the employee's spouse and minor children of any pecuniary interest in any business or activity subject to the department's economic regulation of motor carriers. Supplementary statements shall be filed as such pecuniary interests are acquired or divested. The statements shall be in such form as the department prescribes. If the department determines that an employee or spouse or minor child of the employee holds any such pecuniary interest that may interfere with the impartial discharge of the employee's duties, the department shall order divestiture of the interest.

(2) The department shall determine by rule what constitutes a function concerning economic regulation of motor carriers for purposes of this section.

(3) Nothing in subsections (1) and (2) of this section is intended to authorize any act otherwise prohibited by law. [1995 c.733 §§12,14]

823.009 General powers of department regarding motor carriers and railroads. (1) In addition to the powers and duties now or hereafter transferred to or vested in the Department of Transportation, the department shall represent the customers of any motor carrier or railroad, and the public generally, in all controversies respecting rates, valuations, service and all matters of which the department has jurisdiction regarding motor carriers and railroads. In respect thereof, the department shall make use of its jurisdiction and powers to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates.

(2) The department is vested with power and jurisdiction to supervise and regulate every motor carrier and railroad in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.

(3) The department may participate in any proceeding before any public officer, commission or body of the United States or any state or other jurisdiction for the purpose of representing the public generally and the customers of the services of any motor carrier or railroad operating or providing service to or within this state.

(4) The department may make joint investigations, hold joint hearings within or without this state and issue concurrent orders in conjunction or concurrence with any official, board, commission or agency of any state or of the United States. [1995 c.733 §15; 1997 c.275 §9]

823.010 [1983 c.338 §756; 1985 c.16 §361; 1989 c.782 §1; 1993 c.371 §1; renumbered 682.015 in 1995]

823.011 Authority to adopt rules. The Department of Transportation may adopt and amend reasonable and proper rules and regulations relative to all statutes regarding motor carriers and railroads administered by the department and may adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations of motor carriers and railroads subject to regulation by the department. [1995 c.733 §16]

823.012 Suspension of laws during emergency. (1) If the Director of Transportation determines that an emergency, as defined in ORS 401.025, has occurred or is imminent, the director may suspend operation of one or more of the following statutes involving motor carriers for the purpose of expediting the movement of persons or property:

(a) ORS 818.400, compliance with commercial vehicle enforcement requirements related to commercial vehicle weight, size, load, conformation or equipment.

(b) ORS 825.100, certificate or permit requirement for commercial transportation of persons or property.

(c) ORS 825.104, registration requirement for for-hire or private carrier engaged in interstate operations.

(d) ORS 825.160, requirement for person operating as motor carrier to have policy of public liability and property damage insurance.

(e) ORS 825.162, requirement for person operating as for-hire carrier of freight or express to have cargo insurance.

(f) ORS 825.250, requirement to stop and submit to an inspection of the driver, the cargo or the vehicle or combination of vehicles.

(g) ORS 825.252, safety regulations for for-hire and private carriers.

(h) ORS 825.258, rules for transportation of hazardous waste, hazardous material and PCB.

(i) ORS 825.450, weight identifiers issued by Department of Transportation.

(j) ORS 825.470, temporary pass for single trip or short-time operation of vehicle.

(k) ORS 825.474, assessment of tax for use of highways.

(L) ORS 826.031, registration of certain vehicles not already registered with state.

(2) A suspension under this section may occur prior to a declaration of a state of emergency under ORS 401.165, but may not exceed 72 hours unless a state of emergency is declared under ORS 401.165. If a state of emergency is declared under ORS 401.165, the suspension shall last until the state of emergency is terminated as provided under ORS 401.204.

(3) The director may designate by rule a line of succession of deputy directors or other employees of the department who may suspend operations of statutes under this section in the event the director is not available. Any suspension by a person designated by the director under this subsection has the same force and effect as if issued by the director, except that, if the director can be reached, the suspension must be affirmed by the director when the director is reached. If the director does not set aside a suspension within 24 hours of being reached, the suspension shall be considered affirmed by the director. [2005 c.172 §2; 2007 c.465 §7; 2019 c.491 §49]

Note: 823.012 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 823 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

823.013 Validity of rules, orders, acts and regulations of department; construction of laws. (1) A substantial compliance with the requirements of the laws administered by the Department of Transportation regarding motor carriers and railroads is sufficient to give effect to all the rules, orders, acts and regulations of the department and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

(2) The provisions of such laws shall be liberally construed with a view to the public welfare, efficient facilities and substantial justice between customers and motor carriers or railroads. [1995 c.733 §17]

823.015 Service of notice or other legal process. The service or delivery of any notice, order, form or other document or legal process required to be made by the Department of Transportation in connection with any statute governing motor carriers or railroads may be made by mail. If by mail, service or delivery is made when the required material is deposited in the post office, in a sealed envelope with postage paid, addressed to the person on whom it is to be served or delivered, at the address as it last appears in the records of the department. [1995 c.733 §18]

823.020 [Formerly 485.500; 1989 c.782 §2; 1991 c.67 §224; 1991 c.909 §1; 1993 c.371 §2; renumbered 682.025 in 1995]

INVESTIGATIONS, HEARINGS, RULINGS

823.021 Investigating management of carriers. The Department of Transportation may inquire into the management of the business of all motor carriers and railroads, and shall keep informed as to the manner and method in which the business is conducted. The department has the right to obtain from any motor carrier or railroad all necessary information to enable the department to perform its duties related to motor carriers and railroads. [1995 c.733 §19]

823.023 Right of entry onto premises of any carrier or of business tendering hazardous materials for shipment. (1) The Department of Transportation or authorized representatives may enter upon any premises, or any equipment, rolling stock or facilities operated or occupied by any motor carrier or railroad for the purpose of making any inspection, examination or test reasonably required in the administration of ORS chapters 823, 824, 825 and 826, and to set up and use on such premises, equipment, rolling stock or facilities any apparatus or appliance and occupy reasonable space therefor.

(2) The department or authorized representatives shall, upon demand, have the right to inspect the books, accounts, papers, records and memoranda of any motor carrier or railroad and to examine under oath any officer, agent or employee of such motor carrier or railroad in relation to its business and affairs.

(3) Any person who on behalf of the department makes demand of a motor carrier or railroad for an examination, inspection or test shall, upon request therefor, produce a certificate under the seal of the department showing authority to make such examination, inspection or test.

(4) The department or authorized representatives shall, upon demand, have the right to enter any premises of a business that the department has reasonable cause to believe tendered for shipment, by motor or rail, any hazardous material and to make any examination, inspection or test reasonably required to determine compliance with the health and safety regulations administered or enforced by the department. Any person, who on behalf of the department demands to make an examination, inspection or test, shall produce upon request a certificate under the seal of the department showing authority to make the examination, inspection or test.

(5) Nothing in this section authorizes the department to use any information developed thereunder for any purpose inconsistent with any statute governing motor carriers or railroads and administered by the department or to make a disclosure thereof for other than regulatory purposes. [1995 c.733 §20; 1995 c.737 §11; 1997 c.249 §237]

823.025 Maintaining and producing records; expenses incurred in out-of-state examinations; rules. (1) The Department of Transportation may require by rule, or by order or subpoena to be served on any motor carrier or railroad, the maintaining within this state or the production within this state at such time and place as the department may designate, of any books, accounts, papers or records kept by such motor carrier or railroad in any office or place within or without this state, or verified copies in lieu thereof, if the department so orders, in order that an examination thereof may be made by the department or under direction of the department.

(2) When a motor carrier or railroad keeps and maintains its books, accounts, papers or records outside the state, the department may examine such documents and shall be reimbursed by the motor carrier or railroad for all expenses incurred in making such out-of-state examination. [1995 c.733 §21]

823.027 Duty to furnish information to department. (1) Every motor carrier and railroad shall furnish to the Department of Transportation all information required by the department to carry into effect the provisions of ORS chapters 823, 824, 825 and 826 and shall make specific answers to all questions submitted by the department.

(2) If a motor carrier or railroad is unable to furnish any information required under subsection (1) of this section for any reason beyond its control, it is a good and sufficient reason for such failure. The answer or information shall be verified under oath and returned to the department at the department's office within the period fixed by the department. [1995 c.733 §22; 1997 c.249 §238]

823.029 Failure to furnish requested information. No officer, agent or employee of any motor carrier or railroad shall:

(1) Fail or refuse to provide any information or document required by the Department of Transportation;

(2) Fail or refuse to answer any question therein propounded;

(3) Knowingly or willfully give a false answer to any such question or evade the answer to any such question where the fact inquired of is within the person's knowledge;

(4) Upon proper demand, fail or refuse to exhibit to the department or any person authorized to examine the same, any book, paper, account, record or memorandum of the motor carrier or railroad that is in possession or under the control of the person;

(5) Fail to properly use and keep a system of accounting or any part thereof, as prescribed by the department; or

(6) Refuse to do any act or thing in connection with such system of accounting when so directed by the department or authorized representative. [1995 c.733 §23]

823.030 [Formerly 485.505; 1989 c.782 §3; renumbered 682.035 in 1995]

823.031 Investigating complaints against carriers. (1) The Department of Transportation may investigate any complaint filed against a person whose business or activities are regulated by one or more of the statutes regarding motor carriers or railroads, jurisdiction for the enforcement or regulation of which is conferred upon the department.

(2) Any hearing held as a result of a complaint or investigation under subsection (1) of this section shall be a contested case hearing, in the manner provided in ORS 183.413 to 183.497. [1995 c.733 §§35,36]

823.033 Investigations and orders on department's own motion; request for hearing by aggrieved party. (1) Whenever the Department of Transportation believes that any rate subject to regulation by the department may be unreasonable or unjustly discriminatory, or that any service subject to regulation by the department is unsafe or inadequate, or is not afforded, or that an investigation of any matter relating to any motor carrier, railroad or other person should be made, or relating to any person to determine if such person is subject to the department's regulatory jurisdiction, the department may on its own motion summarily investigate any such matter, with or without notice.

(2) The department may, after making an investigation on the department's motion, provide notice to the motor carrier, railroad or other person of the department's proposed action or may, without notice or hearing, make such findings and orders as the department deems justified or required by the results of such investigation.

(3) Any party aggrieved by a notice of proposed action or by an order entered pursuant to subsection (2) of this section may request the department to hold a hearing pursuant to ORS 183.413 to 183.497.

(4) An order issued under this section prior to a hearing shall be stayed pending the outcome of the hearing unless the department finds that the order is necessary to protect the public health, safety or environment. [1995 c.733 §37; 1997 c.275 §10]

823.035 Representation by non-attorney. (1) Notwithstanding ORS 9.320 and 823.031 (2), an individual who is not an attorney may represent that individual or other persons who consent to such representation at any proceeding before the Department of Transportation involving the regulation of transportation matters pursuant to ORS chapter 825.

(2) Notwithstanding ORS 9.320 and 823.031 (2), an individual who is not an attorney may represent that individual or labor organizations, railroads, motor carriers or government agencies who consent to such representation in any proceeding before the department involving the regulation of transportation matters pursuant to ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256.

(3) Notwithstanding ORS 9.320 and 823.031 (2), an individual who is not an attorney may represent that individual or other persons who consent to such representation in any proceeding before the department involving the regulation of transportation matters pursuant to ORS chapter 826.

(4) Any compromises, agreements, admissions, stipulations, statements of fact or other such action taken by the representative at any such proceeding is binding on those represented to the same extent as if done by an attorney. A person so represented may not thereafter claim that any such proceeding was legally defective because the person was not represented by an attorney.

(5) As used in this section, "attorney" has the meaning for that term provided in ORS 9.005. [1995 c.733 §36a; 2013 c.482 §1]

823.037 Declaratory rulings. On petition of any interested person, the Department of Transportation may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute regarding motor carriers or railroads that is enforceable by the department. A declaratory ruling is binding between the department and the petitioner on the state of facts alleged, unless it is modified, vacated or set aside by the Court of Appeals. However, the department may review the ruling and modify, vacate or set it aside if requested by the petitioner or other party to the proceeding. Binding rulings provided by this section are subject to review in the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases. [1995 c.733 §34]

823.040 [Formerly 485.510; repealed by 1989 c.782 §40]

823.050 [1983 c.338 §976; repealed by 1989 c.782 §40]

DESTRUCTION OF EQUIPMENT

823.051 Interference with department equipment. No person shall destroy, injure or interfere with any apparatus or appliance owned or operated by or in charge of the Department of Transportation, or any apparatus or appliance sealed by the department. [1995 c.733 §24]

823.060 [Formerly 485.515; 1989 c.782 §4; 1991 c.67 §225; 1993 c.371 §3; renumbered 682.045 in 1995]

HAZARDOUS MATERIALS GENERALLY

823.061 Applicability of hazardous material safety regulations; rules. The federal hazardous material safety regulations adopted, implemented or enforced by the Department of Transportation shall be applicable to any person who transports, or causes to be transported, by motor or rail, a hazardous material. The department shall define hazardous material by rule. The definition shall be consistent with federal definitions of the term. [1995 c.737 §10]

823.063 Notice and opportunity to correct hazardous material violations. (1) The Department of Transportation may not impose penalties specified in ORS chapters 823, 824, 825 and 826, against a person who causes hazardous materials to be transported unless the person has received prior written notice of the violation and five days to correct the violation.

(2) No prior written notice or five-day correction period shall be required under subsection (1) of this section for:

(a) Subsequent violations of a like nature occurring within five years of the violation for which the person received notice.

(b) Any violation that causes substantial harm to human health or the environment. [1995 c.737 §15]

823.070 [Formerly 485.520; 1989 c.782 §5; 1991 c.67 §226; 1993 c.371 §4; renumbered 682.047 in 1995]

AGENCY ABANDONMENT

823.071 Definitions for ORS 823.073 and 823.075. As used in ORS 823.073 and 823.075, the following terms have the following meanings:

(1) "Agency" means any place provided by a for-hire carrier for the accommodation of the public in the receipt, delivery, billing or routing of freight, or in the loading or discharge of passengers, at which an agent is provided to serve the public.

(2) "Agent" means the person in charge of the transaction of business with the public at any station or agency.

(3) "Common carrier" means any railroad as defined in ORS 824.020, and any for-hire carrier by motor vehicle as defined in ORS 825.005 if the carrier transports persons. [Formerly 756.380]

823.073 Common carrier not to abandon agencies or withdraw agent without approval of department. No common carrier shall abandon any of its agencies, or withdraw the agent therefrom, without the prior written authority of the Department of Transportation. If the primary business of the agent or agency is not that of a common carrier, the loss of the use of such agent or agency without the fault of the carrier shall not be considered a violation of this section, provided that the carrier shall give to the department notice of such loss immediately upon being informed thereof and secure another agent or agency within a reasonable period of time. [Formerly 756.385]

823.075 Petitioning department for authority to abandon agency or withdraw agent. (1) Any common carrier may petition the Department of Transportation for authority to abandon any agency or to withdraw the agent from an agency.

(2) Upon receipt of a petition to abandon or withdraw under this section, the department shall give written notice of the petition to all known current customers of such agency. If the petition requests authority to abandon or withdraw any agency or agent involved in transportation services using motor buses, the department shall provide notice of the petition for authority and of rights to protest by publication in addition to any written notice required by this subsection. When notice by publication is required under this subsection, such notice must be published in a newspaper of general circulation in the county where the affected agency is located.

(3) If any customer files with the department a written protest to the abandonment of the agency or the withdrawal of the agent therefrom within 30 days from the date written notice is given, the department shall schedule a hearing to be held within 30 days from the filing of such protest. If notice by publication is required under subsection (2) of this section then protest may be filed, as provided under this subsection, within 30 days after the written notice or published notice, whichever is later.

(4) If a hearing is provided under this section, the hearing shall be held at some convenient place in the county in which such agency is located.

(5) Where a common carrier seeks to move the location of its agent or agency from one point within a city to another point within such city the department may approve such move without a hearing. [Formerly 756.390]

823.080 [Formerly 485.525; 1989 c.782 §6; renumbered 682.075 in 1995]

ENFORCEMENT AND REMEDIES

823.081 Enforcement of laws relating to carriers. (1) The Department of Transportation shall inquire into any neglect or violation of any law of this state, or any law or ordinance of any municipality thereof, relating to motor carriers or railroads by any motor carrier or railroad doing business therein, its officers, agents or employees and shall enforce all laws of this state relating to motor carriers and railroads and may enforce all such laws and ordinances of a municipality. The department shall report all violations of any such laws or ordinances to the Attorney General.

(2) The Attorney General, district attorney of each county, all state, county and city police officers and police officers commissioned by a university under ORS 352.121 or 353.125 shall assist the department in the administration and enforcement of all laws related to motor carriers and railroads administered by the department, and they, as well as assistants and employees of the department, shall inform against and diligently prosecute all persons whom they have reasonable cause to believe guilty of the violation of any such laws or of the rules, regulations, orders, decisions or requirements of the department made pursuant thereto.

(3) Upon the request of the department, the Attorney General or the district attorney of the proper county shall aid in any investigation, hearing or trial, and shall institute and prosecute all necessary suits, actions or proceedings for the enforcement of those laws and ordinances referred to in subsection (1) of this section.

(4) Any forfeiture or penalty provided for in any law regarding motor carriers or railroads administered by the department shall be recovered by an action brought thereon in

the name of the State of Oregon in any court of appropriate jurisdiction or as provided in ORS 183.745. [1995 c.733 §25; 2011 c.506 §52; 2013 c.180 §58]

823.083 Enjoining violation of carrier laws. (1) Whenever it appears to the Department of Transportation that any motor carrier, railroad or any other person subject to the jurisdiction of the department is engaged or about to engage in any acts or practices that constitute a violation of any statute regarding motor carriers or railroads administered by the department, or any rule, regulation, requirement, order, term or condition issued thereunder, the department may apply to any circuit court of the state where such motor carrier, railroad or any other person subject to the jurisdiction of the department operates for the enforcement of such statute, rule, regulation, requirement, order, term or condition.

(2) Such court, without bond, has jurisdiction to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such motor carrier, railroad or any other person subject to the jurisdiction of the department, or its officers, agents, employees and representatives from further violations of such statute, rule, regulation, requirement, order, term or condition, and enjoining upon them obedience thereto.

(3) The provisions of this section are in addition to and not in lieu of any other enforcement provisions contained in any statute administered by the department. [1995 c.733 §26]

823.085 Liability for damages to injured person. (1) Any motor carrier or railroad that does, or causes or permits to be done, any matter, act or thing prohibited by ORS chapters 823, 824, 825 and 826, or omits to do any act, matter or thing required to be done by ORS chapters 823, 824, 825 and 826, is liable to the person injured thereby in the amount of damages sustained in consequence of such violation. If the party seeking damages alleges and proves that the wrong or omission was the result of gross negligence or willful misconduct, the motor carrier or railroad is liable to the person injured thereby in treble the amount of damages sustained in consequence of the violation. The court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) Any recovery under this section does not affect recovery by the state of the penalty, forfeiture or fine prescribed for such violation.

(3) This section does not apply with respect to the liability of any motor carrier or railroad for personal injury or property damage. [1995 c.733 §§27,99; 1997 c.249 §239]

823.087 Effect of carrier laws on common law and other statutory rights of action, duties and liabilities. (1) The remedies and enforcement procedures provided in ORS chapters 823, 824, 825 and 826 do not release or waive any right of action by the state or by any person for any right, penalty or forfeiture that may arise under any law of this state or under an ordinance of any municipality thereof.

(2) All penalties and forfeitures accruing under said statutes and ordinances are cumulative and a suit for and recovery of one, shall not be a bar to the recovery of any other penalty.

(3) The duties and liabilities of the motor carriers or railroads shall be the same as are prescribed by the common law, and the remedies against them the same, except where otherwise provided by the Constitution or statutes of this state, and the provisions of ORS chapters 823, 824, 825 and 826 are cumulative thereto. [1995 c.733 §28; 1997 c.249 §240]

823.090 [Formerly 485.530; 1989 c.782 §7; 1993 c.371 §5; renumbered 682.085 in 1995]

823.100 [Formerly 485.535; 1989 c.782 §8; 1991 c.331 §141; 1993 c.371 §6; renumbered 682.105 in 1995]

RECEIPTS AND BILLS OF LADING

823.101 Duty of carrier to issue bill of lading on intrastate shipments; liability of carrier to holder for damage to shipment. (1) Any for-hire carrier, railroad or transportation company receiving property for transportation wholly within this state, from one point in this state to another point in this state, shall issue in accordance with the applicable provisions of ORS chapter 77 a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line or lines such property may pass, when transported on a through bill of lading. No contract, receipt, rule, regulation or other limitation of any character whatsoever shall exempt such for-hire carrier, railroad or transportation company from such liability.

(2) Any for-hire carrier, railroad or transportation company so receiving property for transportation wholly within this state shall be liable to the lawful holder of such receipt or bill of lading, or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line such property may pass when transported on a through bill of lading, notwithstanding any limitation of

liability or limitation of the amount of recovery, or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule or regulation, or in any tariff filed with the Department of Transportation; and any such limitation, irrespective of the manner or form in which it is sought to be made, is unlawful and void.

(3) The provisions of subsection (2) of this section respecting liability for full actual loss, damage or injury, shall not apply:

(a) To baggage carried on passenger trains or boats, or trains or boats carrying passengers.

(b) To property, except ordinary livestock, concerning which the carrier is expressly authorized or required by order of the Department of Transportation to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property. "Ordinary livestock" includes all cattle, swine, sheep, goats, horses and mules, except such as are chiefly used for breeding, racing, show purposes or other special uses.

(4) The Department of Transportation may make the order referred to in subsection (3)(b) of this section in cases where rates dependent upon and varying with declared or agreed values would, in the opinion of the department, be just and reasonable under the circumstances and conditions surrounding the transportation. Any tariff schedule filed with the department pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon. [Formerly 771.010; 1997 c.249 §241]

823.103 Limitations on carrier's power to set time for filing of claim or starting action. A for-hire carrier, railroad or transportation company referred to in ORS 823.101 may not provide by rule, contract, regulation or otherwise a period for filing claims described in ORS 823.101 shorter than the following:

(1) Nine months after delivery of property or after reasonable time for delivery has elapsed for filing of claims in writing, except that if the carrier is a for-hire carrier of household goods, three months.

(2) Two years for the institution of suits. The period for institution of suits shall be computed from the day when notice is given by the carrier to the claimant that the carrier has disallowed all or any part of the claim specified in the notice. [Formerly 771.020; 1997 c.249 §242; 2003 c.754 §12]

823.105 Prohibitions. No common carrier subject to ORS 823.101 to 823.107, its director or officer, receiver, trustee, lessee, agent or person acting for or employed by it, shall, alone or with any other person, willfully do or cause to be done, or willingly suffer or permit to be done, any act, matter or thing prohibited or declared to be unlawful in ORS 823.101 to 823.107, or aid or abet therein, or willfully omit or fail to do any act, matter or thing required to be done by ORS 823.101 to 823.107 or cause or willingly suffer or permit any act, matter or thing so directed or required by ORS 823.101 to 823.107 to be done, or not to be so done, or aid or abet any such omission or failure. [Formerly 771.040]

823.107 Existing remedies not affected. Nothing in ORS 823.101 to 823.107 shall deprive any holder of a receipt or bill of lading of any remedy or right of action which the holder has under existing law. [Formerly 771.050]

823.110 [Formerly 485.540; renumbered 682.107 in 1995]

823.120 [Formerly 485.545; 1989 c.782 §9; 1991 c.331 §142; 1995 c.41 §8; renumbered 682.109 in 1995]

823.130 [Formerly 485.550; 1989 c.782 §10; renumbered 682.135 in 1995]

823.140 [Formerly 485.555; 1989 c.782 §11; 1991 c.909 §2; renumbered 682.145 in 1995]

823.145 [1989 c.782 §14; 1991 c.703 §42; 1991 c.909 §3; renumbered 682.155 in 1995]

823.150 [Formerly 485.560; 1987 c.90 §1; 1989 c.782 §12; 1991 c.909 §4; 1993 c.371 §7; renumbered 682.157 in 1995]

823.160 [Formerly 485.565; 1989 c.782 §15; 1991 c.67 §227; 1993 c.371 §8; renumbered 682.175 in 1995]

823.165 [1989 c.782 §15a; 1991 c.734 §103; 1993 c.371 §9; renumbered 682.185 in 1995]

823.170 [Formerly 485.570; 1989 c.782 §16; renumbered 682.195 in 1995]

823.180 [Formerly 485.573; 1989 c.722 §3; renumbered 682.205 in 1995]

823.190 [Formerly 485.575; 1989 c.782 §18; renumbered 682.215 in 1995]

823.200 [Formerly 485.577; 1987 c.660 §26; 1989 c.782 §19; 1993 c.371 §10; renumbered 682.225 in 1995]

823.204 [1989 c.782 §27; renumbered 682.235 in 1995]

823.205 [1989 c.782 §28; 1991 c.909 §5; renumbered 682.245 in 1995]

823.210 [Formerly 485.580; 1989 c.782 §20; 1991 c.909 §6; 1993 c.371 §11; renumbered 682.255 in 1995]

823.215 [Formerly 677.675; 1991 c.67 §228; 1991 c.909 §7; renumbered 682.265 in 1995]

823.220 [Formerly 485.585; 1989 c.722 §2; 1989 c.782 §21; renumbered 682.275 in 1995]

823.230 [Formerly 485.590; 1989 c.782 §22; renumbered 682.285 in 1995]

823.240 [Formerly 485.595; 1989 c.782 §23; renumbered 682.295 in 1995]

823.250 [1987 c.845 §1; 1989 c.782 §24; renumbered 682.305 in 1995]

823.300 [1989 c.722 §8; renumbered 682.315 in 1995]

823.305 [1989 c.722 §5; renumbered 682.325 in 1995]

823.310 [1989 c.722 §7; renumbered 682.335 in 1995]

823.315 [1989 c.722 §6; renumbered 682.345 in 1995]

823.320 [1991 c.958 §1; renumbered 682.355 in 1995]

823.990 [Formerly 485.992; 1989 c.782 §25; 1993 c.371 §12; renumbered 682.991 in 1995]

PENALTIES

823.991 Penalties. (1) Any motor carrier or railroad that fails to comply with an order or subpoena issued pursuant to ORS 823.025 shall pay a civil penalty, for each day it so fails, of not less than $50 nor more than $500.

(2) Except where a penalty is otherwise provided by law, any motor carrier or railroad shall pay a civil penalty of not less than $100 nor more than $10,000 for each time that the motor carrier or railroad:

(a) Violates any statute regarding motor carriers or railroads, as appropriate, administered by the Department of Transportation;

(b) Does any act prohibited, or fails to perform any duty enjoined upon the motor carrier or railroad;

(c) Fails to obey any lawful requirement or order made by the department; or

(d) Fails to obey any judgment made by any court upon the application of the department.

(3) Violation of ORS 823.029 is punishable after issuance of a final order by the department, by a civil penalty of not less than $1,000 for each offense. A penalty of not less than $500 nor more than $1,000 shall be recovered from the motor carrier or railroad for each such offense when such officer, agent or employee acted in obedience to the direction, instruction or request of the motor carrier or railroad, or any general officer thereof.

(4) Violation of ORS 823.029 is a Class A violation.

(5) Violation of ORS 823.051 is a Class C misdemeanor. Any motor carrier or railroad that knowingly permits the violation of ORS 823.051 shall forfeit, upon conviction, not more than $1,000 for each offense.

(6) In construing and enforcing this section, the act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier or railroad shall in every case be deemed to be the act, omission or failure of such motor carrier or railroad. With respect to any violation of any statute administered by the department regarding motor carriers or railroads, any penalty provision applying to such a violation by a motor carrier or railroad shall apply to such a violation by any other person.

(7) Except as provided in ORS 824.019 and 825.326, and except when provided by law that a penalty, forfeiture or other sum be paid to the aggrieved party, all penalties or forfeitures collected from persons subject to the regulatory authority of the department under ORS chapters 823, 824, 825 and 826 shall be paid into the General Fund and credited to the Motor Carrier Account if collected from a motor carrier and to the Railroad Fund created under ORS 824.014 (1) if collected from a railroad.

(8) Violation of ORS 823.105 is punishable, after issuance of a final order by the department, by a civil penalty of not more than $5,000 for each offense.

(9) Violation of ORS 823.105 is a specific fine violation punishable by a fine of not more than $5,000 for each offense.

(10) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745. [Subsections (1) to (6) of 1995 Edition enacted as 1995 c.733 §38; subsection (7) of 1995 Edition formerly 771.990; 1997 c.249 §243; 1997 c.275 §11; 1999 c.1051 §230; 2001 c.909 §5; 2003 c.576 §567; 2003 c.754 §11; 2011 c.597 §306]

Chapter 824

2019 EDITION

Railroads

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FUNDS, ACCOUNTS AND FEES

824.010 Annual fees payable by railroads; audit. (1) Subject to the provisions of subsections (3) and (4) of this section, each railroad shall pay to the Department of Transportation in each year, such fee as the department finds and determines to be necessary, with the amount of all other fees paid or payable to the department by such railroads in the current calendar year, to defray the costs of performing the duties imposed by law upon the department in respect to such railroads and to pay such amounts as may be necessary to obtain matching funds to implement the program referred to in ORS 824.058.

(2) In each calendar year the percentage rate of the fee required to be paid shall be determined by orders entered by the department on or after March 1 of each year, and notice thereof shall be given to each railroad. Such railroad shall pay to the department the fee or portion thereof so computed upon the date specified in such notice, which date shall be at least 15 days after the date of mailing such notice.

(3) Fifty percent of the cost of carrying out the duties, functions and powers imposed upon the department by ORS 824.200 to 824.256 shall be paid from the Grade Crossing Protection Account.

(4) The department shall determine the gross operating revenues derived within this state in the preceding calendar year by Class I railroads as a whole and by other railroads individually subject to the following limitations:

(a) The total of the fees payable by Class I railroads shall not exceed thirty-five hundredths of one percent of the combined gross operating revenues of Class I railroads derived within this state. The fee paid by each Class I railroad shall bear the same proportion to the total fees paid by Class I railroads as such railroad's share of railroad-highway crossings, track miles and gross operating revenues derived within the state, weighted equally, bears to the total amount of Class I railroad-highway crossings within the state, track miles within the state and gross operating revenues derived within the state.

(b) The fees payable by other railroads shall not exceed thirty-five hundredths of one percent of any such railroad's gross operating revenues.

(5) Payment of each fee or portion thereof provided for in subsections (1) to (4) of this section shall be accompanied by a statement verified by the railroad involved showing its gross operating revenues upon which such fee or portion thereof is computed. This statement shall be in such form and detail as the Department of Transportation shall prescribe and shall be subject to audit by the department. The department may refund any overpayment of any such fee in the same manner as other claims and expenses of the department are payable as provided by law. [1995 c.733 §§29,30]

824.012 Failure to pay fees; penalty. Every person who fails to pay any fees provided for in ORS 824.010 after they are due and payable shall, in addition to such fees, pay a penalty of two percent of such fees for each and every month or fraction thereof that they remain unpaid. If, in the judgment of the Department of Transportation, action is necessary to collect any unpaid fees or penalties, the department shall bring such action or take such proceedings as may be necessary thereon in the name of the State of Oregon in any court of competent jurisdiction, and be entitled to recover all costs and disbursements incurred therein. [1995 c.733 §31]

824.014 Railroad Fund; sources; use. (1) The Railroad Fund is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the Railroad Fund.

(2) All fees, penalties and other moneys collected by the Department of Transportation under ORS 824.010 and 824.012 shall be paid by the department into the State Treasury within 30 days after the collection thereof, and shall be placed by the State Treasurer to the credit of the Railroad Fund created by subsection (1) of this section. The fees, penalties and other moneys collected from railroads shall be used only for the purpose of paying the expenses of the department in performing the duties imposed by law upon the department in respect to railroads. [1995 c.733 §§31a,32; 2011 c.597 §307]

824.016 State Rail Rehabilitation Fund; use. (1) The State Rail Rehabilitation Fund is established as an account in the General Fund of the State Treasury. All moneys in the account are appropriated continuously to the Department of Transportation for expenditures for any or all of the following:

(a) Acquisition of a railroad line.

(b) Rehabilitation or improvement of rail properties.

(c) Planning for rail services.

(d) Any other methods of reducing the costs of lost rail service in this state.

(2) The program developed by the Department of Transportation under this section to provide funds for rail projects shall include:

(a) Development of a formula for determining a minimum cost to benefit ratio necessary for project funding;

(b) Supervision and monitoring of railroad acquisitions and the awarding of rehabilitation contracts;

(c) Continuing inspection of all railroad rehabilitation projects; and

(d) Auditing financial records of all railroad acquisition and rehabilitation projects.

(3) The Department of Transportation shall provide funds for railroad projects under this section only with the approval of the Oregon Transportation Commission. [Formerly 760.620; 2005 c.612 §7]

824.018 Grade Crossing Protection Account; use; limits. (1) There is established in the State Highway Fund an account to be known as the Grade Crossing Protection Account. There shall be credited to the account each fiscal year, from funds received by the State Highway Fund from the registration of vehicles and licensing of drivers under the Oregon Vehicle Code, the sum of $300,000 plus an amount equal to 50 percent of the cost of carrying out the duties, functions and powers imposed upon the Department of Transportation by ORS 824.200 to 824.256. State-shared highway fund revenues for cities and counties, as well as Department of Transportation expenditures for the elimination of hazardous railroad-highway crossings, shall be computed and allocated prior to any appropriation or transfer to the account. The amount of $300,000 credited to the account is continuously appropriated and shall be expended for railroad-highway crossing safety as authorized by ORS 824.242 to 824.248 and subsection (2) of this section. The amount credited to the account for paying the cost of carrying out the duties, functions and powers of the department by ORS 824.200 to 824.256 is transferred and appropriated to the Department of Transportation and shall be used as provided in ORS 824.010 (3). No more than $100,000 in the aggregate shall be allocated from the account in any one fiscal year for costs of construction, reconstruction, alteration or relocation of separated crossings; provided however the unapportioned amount in the Grade Crossing Protection Account at the end of each fiscal year may be allocated for costs of reconstruction, alteration or relocation of separated crossings.

(2) Moneys credited to the account may also be allocated for such highway purposes as the Department of Transportation deems appropriate in order to enhance safety at railroad-highway crossings. The Department of Transportation may allocate no more than $100,000 annually to railroads to defray the costs of maintenance of protective devices at railroad-highway crossings.

(3) As used in this section, "highway," "maintenance costs," "protective device" and "railroad" have the meaning given those terms in ORS 824.200. [Formerly 763.330; 1997 c.249 §245]

824.019 Grade Crossing Safety Improvement Fund. (1) The Grade Crossing Safety Improvement Fund is established separate and distinct from the General Fund. Interest earned by the Grade Crossing Safety Improvement Fund shall be credited to the fund.

(2) Notwithstanding ORS 823.991, all civil penalties collected under ORS 824.222 and 824.223 shall be paid by the Department of Transportation into the State Treasury within 30 days after the collection thereof and shall be placed by the State Treasurer to the credit of the Grade Crossing Safety Improvement Fund. Moneys in the fund are continuously appropriated to the Department of Transportation for the purpose of grade crossing safety improvement projects. [2001 c.909 §4]

Note: 824.019 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

GENERAL PROVISIONS

824.020 Definitions for ORS 824.020 to 824.042. As used in ORS 824.020 to 824.042, unless the context requires otherwise:

(1) "Class I railroad" has the meaning given that term in rules adopted by the Department of Transportation. The definition of "Class I railroad" in rules adopted by the Department of Transportation shall be consistent, insofar as practicable, with the definition of the term under federal law and regulations.

(2) "Railroad" means all corporations, municipal corporations, counties, companies, individuals, associations of individuals and their lessees, trustees or receivers, that:

(a) Own, operate by steam, electric or other motive power, manage or control all or part of any railroad or interurban railroad as a common or for hire carrier in this state, or cars or other equipment used thereon, or bridges, terminals or sidetracks used in connection therewith, whether owned or operated under a contract, agreement, lease or otherwise.

(b) Are engaged in the ownership, management or control of terminals in this state, which corporations, municipal corporations, counties, companies, individuals and associations hereby are declared to be common and for hire carriers, or the transportation of

property within this state by express. [Formerly 760.005]

824.022 Applicability of ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256. (1) ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256 apply to:

(a) The transportation of passengers and property.

(b) The receiving, delivering, switching, storing, elevation and transfer in transit, ventilation, refrigeration or icing, and handling of such property, and all charges connected therewith.

(c) All railroad, terminal, car, tank line, freight and freight line companies.

(d) All associations of persons, whether incorporated or otherwise, that do business as common or for hire carriers upon or over any line of railroad within this state.

(e) Any common or for hire carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water.

(2) ORS 824.020 to 824.042 do not apply to logging or other private railroads not doing business as common carriers.

(3) ORS 824.020 to 824.042 and 824.050 to 824.110 do not apply to corporations, companies, individuals, associations of individuals and their lessees, trustees or receivers that:

(a) Are primarily involved in a business enterprise other than rail transportation;

(b) Conduct rail operations 50 percent or more of which are for the purpose of providing transportation to the primary business enterprise;

(c) Operate on less than 10 miles of track; and

(d) Provide for hire rail transportation service to no more than five persons. [Formerly 760.010]

824.024 Procedure for construction of side lines and extensions. If any railway company owning or operating a railway within this state desires to construct any branch line or side line, or to build an extension of the main line, its board of directors shall adopt a resolution defining the branch, side line or extension, and designating the termini thereof, and shall cause a copy of such resolution, certified by its secretary, to be filed in the office of the Secretary of State, and in the office of each county clerk in or through whose county such branch or side line or extension is to be constructed. Thereupon such corporation has the right to build and construct such branch, side line or extension, and to exercise the right of eminent domain as provided by law, and the termini so designated in such resolution shall be a sufficient designation thereof for the purpose of exercising such right of eminent domain. [Formerly 760.060]

INSPECTORS; REPORTS

824.026 Railway inspectors required; powers and duties. (1) The Department of Transportation shall employ at least three full-time railroad inspectors to assist the department as the department may prescribe in:

(a) Inquiring into any neglect or violation of and enforcing any law of this state or any law or ordinance of any municipality thereof relating to railroad safety;

(b) Inquiring into any neglect or violation of and enforcing any rule, regulation, requirement, order, term or condition issued by the department relating to railroad safety; and

(c) Conducting any investigative, surveillance and enforcement activities that the department is authorized to conduct under federal law in connection with any federal law, rule, regulation, order or standard relating to railroad safety.

(2) A railroad inspector may stop and detain any train and the contents thereof that the railroad inspector reasonably believes is being operated in violation of any law, ordinance, rule, regulation, requirement, order, standard, term or condition referred to in subsection (1) of this section. [Formerly 760.070]

824.028 [Formerly 760.075; repealed by 2007 c.93 §1]

824.030 Annual report to department; penalty. (1) Every railroad shall annually, on or before May 1, unless additional time is granted, file with the Department of Transportation a report verified by a duly authorized officer, in such form and containing such information as the department shall prescribe, covering the year ending December 31 next preceding.

(2) Any railroad failing to make such report shall forfeit to the state, for each day's default, a sum not to exceed $100, to be recovered in a civil action in the name of the State of Oregon. [Formerly 760.305]

ACQUISITION OR ABANDONMENT OF LINES

824.040 Government acquisition of lines; permitted actions. (1) The State of Oregon, a city, county, county service district, mass transit district organized under ORS 267.010 to 267.394, a transportation district organized under ORS 267.510 to 267.650 or a port may acquire, own, reconstruct, rehabilitate, operate or maintain a railroad line for the benefit and use of its inhabitants and for profit.

(2) In the exercise of the power granted under subsection (1) of this section, this state, a city, county, county service district, mass transit district, transportation district or port may:

(a) Acquire, by purchase or otherwise, own, reconstruct, rehabilitate or operate a railroad as described in subsection (1) of this section within and outside its boundaries and the boundaries of this state and running from the city, county, district or port to other points within and outside its boundaries and the boundaries of this state.

(b) Acquire rights of way, easements or real property within and outside its boundaries and the boundaries of this state when necessary or convenient for the acquisition and operation of the railroad line.

(c) Enter into contracts with any person for the reconstruction, rehabilitation, operation or maintenance of the railroad line by such person for the city, county, district or port.

(3) Nothing in this section shall be construed as expanding or diminishing the power of eminent domain conferred upon public bodies, designated in subsection (1) of this section, by ORS 368.116 or any other provision of law. [Formerly 760.610]

Note: 824.040 was added to and made a part of ORS chapters 823, 824, 825 and 826 by legislative action but was not added to ORS chapter 824 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

824.042 Department to participate in contested abandonment proceedings. The Department of Transportation shall participate before the appropriate federal agency in all contested railroad line abandonment proceedings involving the proposed abandonment of any railroad line in this state. Prior to such participation, the department shall consult with public entities and users of railroad service affected by the proposed abandonment. [Formerly 760.630]

SAFETY PROGRAM STANDARD

824.045 Department establishment of state safety oversight program for rail fixed guideway public transportation system; fee; rules. (1) Subject to ORS 479.950, the Department of Transportation, by rule, shall establish a state safety oversight program that applies to all rail fixed guideway public transportation systems in Oregon that are not subject to regulation by the Federal Railroad Administration.

(2) For purposes of 49 U.S.C. 5329(e), the department is designated as the state safety oversight agency to monitor compliance with the program for rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration. The state safety oversight agency and rules:

(a) Shall implement the state safety oversight program in compliance with the requirements of 49 U.S.C. 5329.

(b) Shall review, approve, oversee and enforce the implementation, by the owner and operator of a rail fixed guideway public transportation system, of the public transportation agency safety plan adopted pursuant to 49 U.S.C. 5329(d).

(c) Shall inspect, investigate and enforce the safety of rail fixed guideway public transportation systems.

(d) Shall audit rail fixed guideway public transportation systems for compliance with the public transportation agency safety plan.

(e) May investigate any hazard or risk that threatens the safety of a rail fixed guideway public transportation system.

(f) May investigate any event involving a rail fixed guideway public transportation system.

(g) May investigate any allegation of noncompliance with a transit agency safety plan.

(3) The department shall implement the state safety oversight program for rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration and that are not subject to 49 U.S.C. 5329.

(4) Unless prohibited by federal law, the department shall set an annual fee for owners and operators of rail fixed guideway public transportation systems to defray the costs of the state safety oversight program and the costs associated with department responsibilities under ORS 267.230 (2). The department shall establish by rule the manner and timing of the collection of the fee.

(5) Fees collected by the department that are in excess of the combined actual cost of the state safety oversight program and the costs associated with department responsibilities under ORS 267.230 (2) shall be refunded to owners and operators of rail fixed guideway public transportation systems within one year following the end of the fiscal year in which the department collected the excess fees. In lieu of a refund, an owner or operator of a rail fixed guideway public transportation system may choose to have the excess fees credited against the subsequent year's fee payment. [1995 c.29 §3; 1997 c.275 §43; 2001 c.522 §11; 2015 c.489 §1; 2017 c.46 §2]

FACILITIES AND TRACKS

824.050 Inspection of, recommendations on and orders concerning railroad equipment and facilities. (1) Except as provided in subsection (2) of this section, the Department of Transportation shall examine and inspect the physical condition of all railroad facilities in the state, including roadbeds, stations and equipment. Whenever it appears from such inspection that the safety of the public or the employees of such railroad may be threatened, notice of the condition or practice under investigation shall be given to the railroad and any person responsible for the maintenance or use of the railroad facility. If such condition or practice is not corrected to the department's satisfaction, the department shall set the matter for hearing. Following such hearing the department shall order the railroad or person responsible for the maintenance or use of the railroad facility to make any repairs, alterations, or changes necessary to correct or eliminate any condition or practice found to threaten the safety of the public or the employees of the railroad. If in the opinion of the Department of Transportation a condition or practice is so hazardous as to place the employees of the railroad in immediate danger the department may issue, after hearing, upon 48 hours' written notice given the railroad, an order prohibiting the use of the facility until such time as necessary repair, alterations or changes are made.

(2) This section does not apply to a penalty imposed under ORS 824.090 or 824.992 (7) and (8). [Formerly 761.120; 1997 c.275 §12]

824.052 Track clearances. The Department of Transportation, upon own motion or upon application of any person, and with or without hearing:

(1) May enter an order prescribing standard track clearances for railroads.

(2) Upon finding good cause, may enter an order granting authority for a railroad to operate at particular points with clearances different from those prescribed as standard track clearances. [Formerly 761.180]

824.054 Cooperation with federal agencies on matters of safety; disclosure of reports if required by federal law. (1) The Department of Transportation may cooperate with, make certifications to, and enter agreements with the Secretary of Transportation of the United States, or any other federal agency with jurisdiction over railroads, under the Federal Railroad Safety Act of 1970, as amended through the effective date of that Act.

(2) The Department of Transportation may assume responsibility for and carry out on behalf of the Secretary of Transportation of the United States, or any other federal agency with jurisdiction over railroads, regulatory jurisdiction over the safety practices applicable to railroad facilities and operations in Oregon not otherwise subject to the jurisdiction of any other agency of this state.

(3) Notwithstanding any other provisions of law to the contrary, the Department of Transportation shall make public such reports as are required to be made public under the Federal Railroad Safety Act of 1970, as amended through the effective date of that Act and shall provide such information as is required thereunder to the Secretary of Transportation of the United States. [Formerly 761.190]

824.056 Walkway standards; rules; variances. (1) The Department of Transportation, upon the department's motion or upon application of any person, shall adopt rules that prescribe standards for walkways alongside railroad tracks where necessary for the safety of railroad employees.

(2) The department may for good cause shown permit variances from the standards so prescribed. [Formerly 761.200; 1997 c.275 §13]

824.058 Track improvement and rehabilitation program. The Department of Transportation may:

(1) Identify segments of railroad track in this state that:

(a) Are abandoned, threatened with abandonment or have physical characteristics that reduce freight service; and

(b) Have the potential for providing renewed, continued or improved rail service that would benefit the state or community beyond the cost involved.

(2) Develop and implement programs to encourage improvement of service over segments of railroad track identified under subsection (1) of this section.

(3) With the prior approval of the Oregon Transportation Commission, enter into agreements with the United States Government, a political subdivision in this state or any person to:

(a) Continue existing rail service on a segment of railroad track identified under subsection (1) of this section;

(b) Acquire a segment of railroad track identified under subsection (1) of this section to maintain existing or provide for future rail service;

(c) Rehabilitate or improve, to the extent necessary to permit more adequate and efficient rail service, railroad property on a segment of railroad track identified under subsection (1) of this section; or

(d) Provide funding for less expensive alternatives to rail service over a segment of railroad track identified under subsection (1) of this section.

(4) Do any act required of this state under rules adopted by the United States Secretary of Transportation under section 1654, title 49, United States Code, for allocation and distribution of funds to any state under section 1654, title 49, United States Code, for preserving or improving rail freight service in this state. [Formerly 761.205]

Note: 824.058 was added to and made a part of ORS chapters 823, 824, 825 and 826 by legislative action but was not added to ORS chapter 824 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

EQUIPMENT

824.060 First aid kits required on locomotives and caboose cars. Every locomotive and caboose of every railroad operating in this state shall be equipped with a first aid kit. [Formerly 761.315]

824.062 Equipment required on track motor cars. (1) Every person operating or controlling any railroad which is a common carrier shall equip each of its track motor cars operating during the period 30 minutes before sunset and 30 minutes after sunrise with:

(a) An electric headlight of sufficient candle power to enable the operator of the car to plainly discern any track obstruction, landmark, warning sign or grade crossing at a distance not less than 300 feet.

(b) A red rear electric light with sufficient candle power to be plainly visible at a distance not less than 300 feet.

(c) A windshield equipped with a device, which must be kept in good working order, with which the operator can clean rain, snow and other moisture from the windshield.

(d) A canopy or top adequate to protect the occupants of the car from sun, rain, snow or other inclement weather.

(2) As used in this section, "track motor car" means all power-propelled speeders and motor cars which can be lifted on and off the track by hand. [Formerly 761.320]

824.064 Self-propelled vehicles used in yards or terminals. (1) No railroad shall permit or require an employee to use a self-propelled vehicle in its yards or terminals for inspecting trains, equipment or facilities or transporting employees or materials for the repair of trains, equipment or facilities, unless the vehicle is designed, constructed and operated in accordance with the safety orders and regulations adopted under ORS 654.001 to 654.170 and 654.202 to 654.216.

(2) As used in subsection (1) of this section, "railroad" means a railroad as defined by ORS 824.020 and 824.022. [Formerly 761.325]

Note: 824.064 was added to and made a part of ORS chapters 823, 824, 825 and 826 by legislative action but was not added to ORS chapter 824 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

824.066 Helper unit operation restrictions. (1) Except for operation in its yards or terminals, no railroad shall permit or require a helper unit that is not attached to a train to be operated with a crew of fewer than two people.

(2) As used in this section, "helper unit" means a locomotive power unit placed near the middle of or at the rear of a train to help the train traverse steep grades.

(3) A violation of this section is a Class A violation. [Formerly 761.331; 1999 c.1051 §231]

824.068 Water quality and sanitation facility standards for locomotives and caboose cars. (1) The Department of Transportation shall prescribe standards for water quality and sanitation facilities on railroad locomotives and cabooses in this state.

(2) The department may for good cause shown permit variances from the standards so prescribed. [Formerly 761.365]

HAZARDOUS MATERIALS

824.080 "Hazardous materials" defined. As used in ORS 824.082 to 824.090 "hazardous materials" means those substances designated by the Department of Transportation pursuant to ORS 824.086 (1). [Formerly 761.370]

824.082 Notice of movement of hazardous materials; confidentiality of notice information. (1) Before transporting hazardous materials into this state or from a railroad terminal located within this state, a railroad shall, as soon as reasonably possible after it has notice of such train movement, provide such notification thereof as the Department of Transportation determines pursuant to ORS 824.086. If the information necessary for the notification is not available before beginning the train movement, or if hazardous materials are added to the train while en route, notification shall be given as soon as the information is available. For the purposes of this subsection, "train movement" does not include a switching or transfer movement.

(2) Except to the extent that the Department of Transportation determines is necessary to provide for the safe transportation of the hazardous materials, the department, an employee of the department and any person receiving information pursuant to this section shall not divulge or make known the

information contained in the notification at any time before or during the transportation of the hazardous materials for which the notification is provided. [Formerly 761.380]

824.084 Visual external inspections required on cars standing in rail yards or stations more than two hours. Each railcar containing hazardous materials for which an "Explosives A," "Flammable Gas" or "Poison Gas" placard is required by federal regulation, and which remains in a rail yard or station for more than two hours shall be visually inspected externally by the transporting railroad within two hours of the car's arrival and within two hours prior to the car's departure. [Formerly 761.395]

824.086 Designation of hazardous materials and notice requirements; rules. After consultation with the State Fire Marshal the Department of Transportation shall determine:

(1) What material and quantity thereof the transportation of which is hazardous to public health, safety or welfare and shall designate by rule such materials and quantities as hazardous materials. In defining hazardous materials the department shall adopt definitions in conformity with the federal rules and regulations. Rules adopted under this subsection shall be applicable to any person who transports, or causes to be transported, any hazardous material.

(2) What notification required by ORS 824.082 (1) is necessary to provide for the safe transportation of hazardous materials, including but not limited to the time, content and manner of notification. [Formerly 761.400]

824.088 Notifying Office of Emergency Management of reportable incident, derailments and fires; radio gear. (1) Each railroad that gives notice to the United States Department of Transportation of an incident that occurs during the course of transporting hazardous materials as defined by federal regulations shall also give notice of the incident to the Director of the Office of Emergency Management.

(2) As soon as reasonably practicable, each railroad shall notify the director by telephone or similar means of communication of any derailment or fire involving or affecting hazardous material.

(3) To facilitate expedited and accurate notice to the director under this section, each train transporting hazardous materials in this state shall be equipped with at least two radio transmitter-receivers in good working order. In addition, 18 months after October 4, 1977, trains over 2,000 feet in length that are transporting hazardous materials shall be equipped with a radio handset in good working order capable of communicating with the radio transmitter-receivers. If the equipment required under this section does not function while the train is en route, the train may proceed to the next point of crew change where the equipment shall be replaced or repaired. [Formerly 761.405; 2007 c.740 §40]

824.090 Department to set standards for safe transportation of hazardous wastes; rules; civil penalty. (1) The Department of Transportation shall adopt rules setting standards for the safe transportation of hazardous wastes, as defined in ORS 466.005, by all transporters.

(2) The authority granted under this section:

(a) Is in addition to any other authority granted the department.

(b) Does not supersede the authority of the Energy Facility Siting Council to regulate the transportation of radioactive materials under ORS 469.550, 469.563, 469.603 to 469.619 and 469.992.

(3) In addition to any other penalty for violation of a rule adopted under this section, the department, in the manner provided in ORS 183.745, may impose a civil penalty of not more than $10,000 for violation of a rule adopted under this section. Each day of noncompliance with a rule is a separate violation.

(4) As used in this section, "transporter" has the meaning given that term in ORS 466.005. [Formerly 761.415; 1997 c.275 §14]

824.092 Disclosure of hazardous waste reports and information to Environmental Protection Agency. Records, reports and information obtained or used by the Department of Transportation in administering the hazardous waste program under ORS 824.090 shall be available to the United States Environmental Protection Agency upon request. If the records, reports or information has been submitted to the department under a claim of confidentiality, the state shall make that claim of confidentiality to the Environmental Protection Agency for the requested records, reports or information. The federal agency shall treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law. [Formerly 761.421]

CABOOSE REQUIREMENTS

824.100 Definitions for ORS 824.102 to 824.110. As used in ORS 824.102 to 824.110:

(1) "Caboose" means any car or coach used on a train to carry a train crew.

(2) "Marker" means any lamp providing illumination by electrical power which is de-

signed to be displayed on a railroad car or coach for safety purposes.

(3) "Terminal" means a system of tracks, the boundaries of which are set by a railroad for the purpose of coupling or uncoupling cars. [Formerly 761.600]

824.102 Application of requirements. The provisions of ORS 824.102 to 824.110 shall apply to all cabooses except those used in terminal service or in road service for a distance not to exceed three miles, and shall not apply to logging railways. [Formerly 761.605; 1999 c.59 §246]

824.104 Fire extinguishers; exemption. (1) All cabooses shall be equipped with fire extinguishers meeting the following requirements:

(a) Each caboose shall have at least one portable fire extinguisher.

(b) Fire extinguishers may be of a foam, dry chemical or carbon dioxide type.

(c) The fire extinguishers in each caboose shall provide a minimum capacity of one and one-quarter gallons or five pounds. More than one fire extinguisher may be used to comply with the minimum capacity requirement under this paragraph.

(d) Fire extinguishers shall be placed in readily accessible locations.

(e) Fire extinguishers shall be maintained in working order.

(2) A railroad may apply for a temporary exemption from the provisions of subsection (1) of this section. The Department of Transportation will consider the application of the railroad for a temporary exemption when accompanied by a full statement of the conditions existing and the reasons for the exemption. Any exemption so granted will be limited to a stated period of time. [Subsection (1) formerly 761.620; subsection (2) formerly 761.625]

824.106 Use of noncomplying caboose prohibited; equipment failure; repair. A caboose shall not be placed in service unless it is in compliance with all of the provisions of ORS 824.102 to 824.110 relating to required equipment and standards of maintenance. In the event a failure of required equipment or standards of maintenance occurs after a caboose has departed from a terminal and a member of the train crew has boarded the caboose, the railroad operating the caboose shall not be deemed to be in violation of ORS 824.102 to 824.110 if such failure of equipment or standard of maintenance is corrected at the first point at which maintenance supplies are available or, in the case of repairs, the first point at which repair facilities are available and repairs can reasonably be made or the defective equipment replaced. [Formerly 761.630; 1999 c.59 §247]

824.108 Register for reporting failures of equipment or maintenance standards; rules for use. A register for the reporting of failures of required equipment or standards of maintenance shall be maintained on all cabooses. The register shall contain sufficient space to record the dates and particulars of each failure. The Department of Transportation shall provide rules for the use of this register, including a requirement that the record of reported failures be maintained not less than 80 days from the date of the most recent failure. [Formerly 761.635]

824.110 Administrative authority of department; rules. The Department of Transportation shall regulate and enforce all sections of ORS 824.102 to 824.110 and shall promulgate all rules necessary for the enforcement of ORS 824.102 to 824.110. [Formerly 761.640; 1999 c.59 §248]

824.112 [Subsections (1) to (4) formerly 761.900; subsections (5) to (8) formerly 761.905; 1997 c.249 §246; 1997 c.275 §15a; renumbered 824.990 in 1997]

824.114 [Subsections (1) to (5) formerly 761.990; subsection (6) formerly 761.992; subsections (7) and (8) formerly 761.994; 1997 c.249 §248; renumbered 824.992 in 1997]

RAILROAD CROSSINGS

824.200 Definitions for 824.200 to 824.256. As used in ORS 824.200 to 824.256, unless the context requires otherwise:

(1) "High speed rail system" means a fixed guideway passenger transportation system capable of transporting passengers at speeds exceeding 79 miles per hour and connecting two or more urban areas, including but not limited to any such system that utilizes or incorporates, in whole or in part, existing rail transportation facilities and any necessary upgrades of or modifications to existing rail transportation facilities.

(2) "Highway" includes all roads, streets, alleys, avenues, boulevards, parkways and other places in this state actually open and in use, or to be opened and used for travel by the public.

(3) "Installation costs," when used in the context of protective devices, includes costs of acquiring, assembling and rendering operational the device and its attendant controls, circuitry and fail-safe mechanisms.

(4) "Maintenance costs," when used in the context of protective devices, includes preventive maintenance, repair and replacement of the device and its attendant controls, circuitry and fail-safe mechanisms.

(5) "Protective device" means a sign, signal, gate or other device to warn or protect the public, installed at or in advance of a railroad-highway crossing.

(6) Except in proceedings under ORS 824.236, "public authority in interest" means the state, county, municipal or other governmental body with jurisdiction over the highway crossing the railroad track. In proceedings under ORS 824.236, "public authority in interest" means the county, municipal or other governmental body that has primary zoning authority over the lands served by the crossing.

(7) "Railroad" has the meaning given that term in ORS 824.020, and includes logging and other private railroads.

(8) "Railroad company" includes every corporation, company, association, joint stock association, partnership or person, and their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, controlling or managing any railroad.

(9) "Unauthorized railroad-highway crossing" means a crossing at grade that is actually open and in use, or to be opened and used for travel by the public, and that has not been authorized under ORS 824.204. [Formerly 763.010; 2005 c.22 §517]

824.202 Policy; authority vested in state and department. It is the policy of this state to achieve uniform and coordinated regulation of railroad-highway crossings and to eliminate crossings at grade wherever possible. To these ends, authority to control and regulate the construction, alteration, and protection of railroad-highway crossings is vested exclusively in the state, and in the Department of Transportation as provided in ORS 824.200 to 824.256. [Formerly 763.013]

824.204 Authority to construct grade crossings; protective devices. (1) Except for the repair of lawfully existing roads and highways or the replacement of tracks, no highway shall be constructed across the track of any railroad company at grade, nor shall the track of any railroad company be constructed across a highway at grade, without having first secured the permission of the Department of Transportation.

(2) Whenever any railroad company desires to cross any established and existing highway at grade or any public authority desires to lay out and extend any highway over and across any established and existing railroad at grade, it shall file with the department its application setting forth the objections and difficulties of making such crossing either above or below the grade of the existing highway or railroad.

(3) Upon receipt of the above application the department, after hearing, unless a hearing is not required under ORS 824.214, shall:

(a) Determine whether the public safety, public convenience and general welfare require a grade separation; and

(b) In the event a grade separation is not required, determine whether the application should be refused or granted, and upon what terms and conditions.

(4) If the grade crossing is approved, the department shall determine and prescribe the manner of its construction, maintenance and use, the kind and location of protective devices to be installed, the allocation of costs and the place of the crossing. [Formerly 763.020]

824.206 Elimination, relocation or alteration of grade crossing; installation or alteration of protective devices. (1) The Department of Transportation may, upon its own motion or upon application by a railroad or the public authority in interest, subsequent to a hearing, unless a hearing is not required under ORS 824.214, and upon finding that such action is required by the public safety, necessity, convenience and general welfare:

(a) Eliminate a grade crossing by relocation of the highway;

(b) Alter or abolish any grade crossing or change the location thereof, or require a separation of grades at any such crossing;

(c) Alter or change any existing crossing at separated grades; and

(d) Require installation or alteration of protective devices.

(2) The department shall prescribe the time and manner of such alteration, change, installation or alteration, and the terms and conditions thereof. [Formerly 763.030; 1997 c.249 §250; 1997 c.275 §16]

824.208 Authority to fix speeds and regulate sounding of train warning devices at crossings. (1) The power to fix and regulate the speed of railway trains and to regulate the sounding of railway train warning devices at public railroad-highway crossings is vested exclusively in the state.

(2) Upon petition of any public authority in interest or of any railroad or upon the Department of Transportation's own motion, the Department of Transportation shall, after due investigation and hearing, unless a hearing is not required under ORS 824.214 enter an order fixing and regulating the speed of railway trains or regulating the sounding of railway train warning devices.

(3) The speed limits fixed by the department shall be maximum speed limits and shall be commensurate with the hazards presented and the practical operation of the trains. [Formerly 763.035]

824.210 Construction and alteration of crossings above or below grade. No highway shall be constructed across the track of any railroad company above or below grade, nor shall the track of any railroad company

be constructed across a highway above or below grade, without having first secured the permission of the Department of Transportation. If permission is granted, the department shall, after a hearing, unless hearing is not required under ORS 824.214, prescribe the terms and conditions upon which such crossing shall be made and shall allocate the cost of construction and maintenance. [Formerly 763.040]

824.212 Specifications for construction and maintenance of crossings; application of specifications; priorities; compliance. (1) The Department of Transportation shall adopt regulations prescribing specifications for the construction and maintenance of railroad-highway crossings, both at grade level and at separated grades. The specifications shall be developed in consultation with representatives of cities and counties and shall conform to nationally recognized and commonly used standards to ensure that the crossings are constructed and maintained in a manner that conforms to the public safety, necessity, convenience and general welfare, including but not limited to the projected transportation needs.

(2) Specifications for separate crossings adopted under subsection (1) of this section do not apply to crossings in existence on the effective date of the regulation prescribing the specifications. However, within a reasonable period after the effective date, crossings shall be altered or reconstructed to comply with the regulations in effect at the time of the alteration or reconstruction.

(3) Priorities for such alterations or reconstruction shall be established by the Department of Transportation, based upon the expressed need of the public authority in interest, and upon such other factors as danger or inconvenience to motorists, age of the structure, frequency of reported accidents and degree of noncompliance with regulations.

(4) If the public authority in interest or the railroad company fails to so alter or reconstruct a crossing, the department, after following the procedures specified in ORS chapter 183 for contested cases, may order the alteration or reconstruction and proceed in accordance with ORS 824.216. [Formerly 763.055; 1997 c.249 §251; 1997 c.275 §17]

824.214 Procedure to obtain permission for crossings; rules. (1) Proceedings to carry out ORS 824.204, 824.206, 824.210 to 824.218, 824.224, 824.226 to 824.230, 824.238, 824.240 and 824.256, including the right to review any order of the Department of Transportation, shall be those specified in ORS chapter 183 for contested cases. If the final order of the department, in a proceeding initiated under ORS 824.206 or 824.226 by a city or county, is appealed and the city or county prevails, it shall be entitled to costs and reasonable attorney fees.

(2) The department may adopt rules to govern the procedure, and to regulate the mode and manner of all investigations under ORS 824.204, 824.206, 824.210 to 824.218, 824.224, 824.226 to 824.230, 824.238, 824.240 and 824.256.

(3) The authority granted the department by ORS 824.200 to 824.256 is in addition to and not in lieu of the authority of any city, county or other political subdivision of the state to use other remedies and procedures to provide public highways for the traveling public. [Formerly 763.080; 1997 c.249 §252; 1997 c.275 §18]

824.216 Procedure to compel compliance with orders. (1) The railroad company, public authority or person to whom an order of the Department of Transportation is directed under ORS 824.200 to 824.256 shall comply with such order within such reasonable time as may be prescribed by the department. In case of failure to comply, the department shall thereupon take proceedings to compel obedience to such order.

(2) The circuit court has power in case of all such orders by the department to compel obedience therewith by mandamus, brought in the name of the state, subject, however, to appeal to the Court of Appeals in the same manner and with like effect as provided in cases of appeal from the order of the circuit court. [Formerly 763.090; 1997 c.275 §19]

824.218 Work and materials furnished by railroad company; supervision of work. All work and the material for work done under ORS 824.200, 824.204, 824.206, 824.210 to 824.218, 824.226 to 824.230, 824.238, 824.240 and 824.256 within the limits of railroad rights of way shall, if the railroad company so desires, be furnished and done by the railroad company. However, the Department of Transportation shall have supervision of the work and may decide the kind of material to be used. [Formerly 763.100; 1997 c.249 §253]

824.220 Protective devices; rules. The Department of Transportation shall adopt rules prescribing specifications for the design and location of protective devices. [Formerly 763.110; 1997 c.249 §254]

824.222 Authority over duration that grade crossing may be blocked; penalty. (1) The power to fix and regulate the length of time a public railroad-highway grade crossing may be blocked by railroad equipment is vested exclusively in the state.

(2)(a) Upon petition of the public authority in interest, or of any railroad or upon the Department of Transportation's own motion, the department shall, after due investigation

and hearing, unless hearing is not required under ORS 824.214, enter an order fixing and regulating the length of time a public railroad-highway grade crossing may be blocked by railroad equipment.

(b) Upon petition of a person, the department shall investigate and may hold a hearing and, following a hearing, may enter an order fixing and regulating the length of time a public railroad-highway grade crossing may be blocked by railroad equipment.

(3) The time limits fixed by the department shall be maximum time limits and shall be commensurate with reasonable requirements of train and vehicular traffic operations.

(4) Violation of a time limit fixed by the department under this section is punishable by a civil penalty of not less than $100 nor more than $3,000 for each offense. [Formerly 763.120; 2001 c.909 §1]

824.223 Authority to regulate distance from grade crossing at which railroad may stop or park equipment; penalty. (1) The power to regulate the distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment is vested exclusively in the state.

(2)(a) Upon petition of the public authority in interest, or of any railroad or upon the Department of Transportation's own motion, the department shall, after due investigation and hearing, unless hearing is not required under ORS 824.214, enter an order establishing a safe distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment.

(b) Upon petition of a person, the department shall investigate and may hold a hearing and, following a hearing, may enter an order establishing a safe distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment.

(3) In determining what constitutes a safe distance under subsection (2) of this section, the department shall consider issues including, but not limited to, hazards associated with public railroad-highway grade crossings that do not have active protective devices.

(4) Violation of an order issued under subsection (2) of this section is punishable by a civil penalty of not less than $100 nor more than $3,000 for each offense. [2001 c.909 §3]

824.224 When stop signs are to be installed by railroad; exemption; grade crossing alteration, relocation or closure. (1) At every farm or private grade crossing of a railroad where no automatic grade crossing protective device is installed, the railroad shall cause to be installed and maintained, as a means of protecting the crossing, one or more stop signs.

(2) The Department of Transportation shall, after hearing, unless hearing is not required under ORS 824.214, prescribe the number, type and location of the stop signs and may exempt a farm or private grade crossing if the department finds that the installation of such sign or signs at the crossing would create a hazard or dangerous condition that would not otherwise exist.

(3) After notice to any affected landowner and opportunity for a hearing, unless a hearing is not required under ORS 824.214, the Department of Transportation may alter, relocate or close any farm or private grade crossing on any line designated as a high speed rail system.

(4) If the department decides to alter, relocate or close a farm or private grade crossing in such a manner as to constitute a taking of private property, the department shall exercise its power of eminent domain to acquire such property as is necessary to carry out the decision. A department order under this subsection shall constitute a resolution of necessity for exercise of the department's power of eminent domain.

(5) If the department exercises its power of eminent domain under subsection (4) of this section, the department shall use any combination of state or federal funds allocated for high speed rail systems to pay any settlement with or judgment in favor of an owner of a farm or private grade crossing. The department shall have discretion to determine whether to reach a settlement with an owner of a farm or private grade crossing.

(6) The costs of implementing a department order issued under subsection (3) of this section shall be apportioned to any combination of state or federal funds specifically allocated for high speed rail systems as the department determines appropriate in order to eliminate farm or private grade crossings or to enhance safety at such crossings. [Formerly 763.130; 1997 c.249 §255; 1997 c.275 §20]

824.226 Dangerous grade crossings; notice; hearing; order to install protective devices; apportioning of cost. (1) The Department of Transportation on its own motion may, or upon application by the common council or mayor of any city, or any county judge or county commissioner or county roadmaster, or by five or more residents and taxpayers in any city, county or road district to the effect that a public highway and a railroad cross one another in such city, county or road district at the same level, and that such grade crossing is unsafe and dangerous to travelers over such highway or railroad, shall, give notice to the

railroad company, of the filing of such application, and furnish a copy of the same to the railroad company, and order a hearing thereon in the manner provided for contested case hearings under ORS chapter 183.

(2) If upon such hearing it appears to the satisfaction of the department that the crossing complained of is unsafe and dangerous to human life, the department may order the crossing closed or order and direct the railroad or public authority to install and maintain proper protective devices, and establish a date by which such devices are to be installed and placed into operation. The department shall apportion the installation and maintenance costs thereof in accordance with ORS 824.242 to 824.246, and, notwithstanding the provisions of ORS chapter 183, shall suspend the effective date of the order until the public authority in interest has consented to the apportionment and has agreed to comply therewith. [Formerly 763.170; 1997 c.275 §21]

824.228 Procedure for determining mode of track crossing of intersecting railroads. (1) Whenever it becomes necessary for the track of one railroad to cross the track of another railroad, the Department of Transportation shall ascertain and define either on the application of a railroad or on its own motion and after notice to the affected railroads, in the manner provided for contested cases in ORS chapter 183, the mode of such crossing that occasions the least probable injury upon the safety, welfare and interests of the public and the rights of the company owning the road that is intended to be crossed.

(2) The department shall also determine the compensation to be paid by the railroad so seeking to cross the other, if the railroads are unable to agree thereon, and the points and manner of such connection.

(3) If it appears to the department that it is reasonable and practicable to avoid a grade crossing, the department shall by order prevent the same, and shall prescribe the manner of such crossing.

(4) If any railroad seeks to cross at grade with its tracks the tracks of another railroad, the railroad seeking to cross at grade shall be compelled to pay all damages caused by such crossing, and to interlock or protect such crossing by safety devices to be designated by the department, and to pay all costs of appliances, together with the expenses of putting them in and maintaining them. This requirement does not apply to crossings of sidetracks. [Formerly 763.180; 1997 c.275 §22]

824.230 Installation of protective devices where railroads intersect at grade. (1) In any case where the tracks of two or more railroads cross each other at a common grade in this state, the railroads, when ordered by the Department of Transportation, shall protect such crossings by interlocking or other safety devices, under regulations to be designated by the department, to prevent trains colliding at such crossings. An order may be issued under this section only after notice to the affected railroads and a proceeding under ORS chapter 183 initiated by the department on its own motion or upon application by one of the railroads.

(2) The department in making such order shall designate the manner of such interlocking protection, and shall apportion the cost of installing and maintaining the same between the several railroads, if such railroads are unable to agree upon the same between themselves. [Formerly 763.190; 1997 c.275 §24]

824.232 Forfeiture for noncompliance. Any company, corporation, person or receiver operating any railroad who neglects to comply with any order made by the Department of Transportation pursuant to ORS 824.228 or 824.230 shall forfeit and pay to the state a penalty of $500 per week for each week of such neglect. [Formerly 763.200]

824.234 Use of findings of department regarding hazards at crossings. The determinations of the Department of Transportation under ORS 824.200 to 824.256 as to hazards at crossings shall not be admissible in any civil action for damages. [Formerly 763.210]

824.236 Protective devices at unauthorized railroad-highway crossing; apportionment to railroad; reimbursement; closure. (1) Except as provided in subsection (2) of this section, the Department of Transportation may, under ORS 823.033, order a railroad to install and maintain protective devices at an unauthorized railroad-highway crossing and order the public authority in interest to install and maintain stop signs at and other protective devices in advance of an unauthorized railroad-highway crossing.

(2) The department may not order the railroad to install at an unauthorized railroad-highway crossing devices which are activated immediately in advance of, and during, each train movement over the crossing unless the department determines that the railroad intentionally created the unauthorized crossing after June 2, 1995.

(3) Except as provided in subsection (4) of this section, in any proceeding under subsections (1) and (2) of this section, or unless the parties agree otherwise, installation and maintenance costs of protective devices shall be apportioned to the railroad.

(4) The railroad may seek reimbursement or indemnity from third parties.

(5) Under ORS 823.033, the department may open an investigation to consider closure of an unauthorized railroad-highway crossing. If the department decides to open an investigation, it shall post notice of the investigation at the crossing at least 30 days prior to opening the investigation. If the department is unable to complete an investigation within two years from the date it was opened, the department shall order the crossing closed within one year from the expiration of the two-year period allowed for investigation unless closure of the unauthorized railroad-highway crossing would remove the only access to any land. [Formerly 763.220; 2003 c.145 §3]

824.237 [2013 c.765 §5; 2015 c.707 §6; repealed by 2019 c.491 §55]

COST APPORTIONMENTS

824.238 Division of costs between railroad and public authority. The following costs shall be divided between the railroad and the public authority in interest in such proportion as the Department of Transportation finds just and equitable under the circumstances in each case:

(1) That portion of the cost of any alteration or change resulting in the elimination of a grade crossing under ORS 824.206 (1) by reason of relocation of the highway which is directly chargeable to the grade elimination.

(2) The costs of construction, change, alteration, abolition and relocation of any grade crossing involved in a proceeding arising under ORS 824.204, 824.206 or 824.226.

(3) The costs of maintenance of crossings above or below grade under ORS 824.206 and 824.210.

(4) Any cost otherwise apportionable under the terms of ORS 824.242 to 824.246 or 824.248 (1) to the extent that funds are not available from the Grade Crossing Protection Account. [Formerly 763.250]

824.240 Payment when public highway involved. (1) As to all crossings above or below grade constructed on state highways, the proportion of expense to be borne by public authority in interest shall be paid from the state highway funds.

(2) Any public authority in interest acting through its governing body may, at its option, by agreement with the Department of Transportation, bear a share of the expense of constructing any railroad crossing above or below grade on a state highway.

(3) If federal funds allocated specifically for removal of hazards at hazardous railroad-highway crossings are available for any part of the work to be performed, the Department of Transportation shall cause such funds to be used for such purposes. [Formerly 763.260]

824.242 Apportionment of costs for installation of protective devices. In any grade crossing proceeding arising under ORS 824.204, 824.206 or 824.226, unless the parties agree otherwise, installation costs of protective devices shall be apportioned as follows:

(1) At an existing crossing, a crossing relocated pursuant to ORS 824.206 or 824.226, or a crossing previously closed by order of the Department of Transportation and reopened in a proceeding under ORS 824.204:

(a) For devices to be installed at or in advance of the crossing and which are activated immediately in advance of, and during, each train movement over the crossing:

(A) Seventy-five percent to the Grade Crossing Protection Account;

(B) Five percent to the public authority in interest; and

(C) Twenty percent to the railroad company.

(b) For devices which are primarily designed for the purpose of illuminating the crossing or its approaches during hours of darkness:

(A) Not less than 90 percent to the Grade Crossing Protection Account;

(B) Not more than five percent to the public authority in interest; and

(C) Not more than five percent to the railroad company for such devices to be installed at the crossing.

(c) For all other protective devices:

(A) Seventy-five percent to the Grade Crossing Protection Account; and

(B) Twenty-five percent to the public authority in interest for such devices to be installed by it at or in advance of the crossing; or

(C) Twenty-five percent to the railroad company for such devices to be installed by it at the crossing.

(2) Except as provided in subsection (4) of this section, at a new crossing requested by a public authority, 100 percent of the installation costs shall be paid by the public authority in interest.

(3) Except as provided in subsection (4) of this section, at a new crossing requested by a railroad company, 100 percent of the installation costs shall be paid by the railroad company.

(4) If the Department of Transportation converts an unauthorized railroad-highway crossing to a crossing authorized under ORS 824.204, the department shall apportion installation costs of protective devices as pro-

vided in subsection (1) of this section, or, if federal funds are available, installation costs may be apportioned as provided in ORS 824.250. [Formerly 763.271]

824.244 Apportionment of costs for maintenance of protective devices. Unless the parties agree otherwise, maintenance cost of protective devices at grade crossings installed pursuant to ORS 824.204, 824.206 or 824.226 shall be apportioned as follows:

(1) One hundred percent to the railroad company for devices at the crossing actually installed and maintained by the railroad.

(2) One hundred percent to the public authority in interest for devices at or in advance of the crossing actually installed and maintained by the authority, except as provided under subsection (3) of this section.

(3) Fifty percent to the railroad company, and 50 percent to the public authority in interest, for devices at the crossing installed and maintained by the public authority which are primarily designed for the purpose of illuminating the crossing during hours of darkness and which are not activated immediately in advance of, or during, each train movement. [Formerly 763.273]

824.246 Apportionment of costs of crossing closure. If in any grade crossing proceeding arising under ORS 824.204, 824.206 or 824.226, the Department of Transportation requires the closure of any existing crossing within the jurisdiction of the public authority in interest, the department may apportion to the railroad company, for such crossing closed, an amount not to exceed five percent of the cost of installation of protective devices at any new or other existing crossing within the jurisdiction of the public authority in interest. Any additional costs paid by the railroad company shall reduce the share otherwise apportionable to the public authority in interest. [Formerly 763.275]

824.248 Apportionments for crossings above or below grade. In any proceeding involving a crossing above or below grade arising under ORS 824.206 or 824.210, unless the parties agree otherwise, the cost of construction, reconstruction, or alteration of such crossings shall be apportioned as follows:

(1) At existing crossings above or below grade: 10 percent of the cost of reconstruction or alteration to the public authority in interest and all remaining costs of reconstruction or alteration to the Grade Crossing Protection Account and the railroad in interest as is just and equitable under the circumstances in each case.

(2) At a new crossing requested by a public authority: All construction costs to the public authority in interest.

(3) At a new crossing requested by a railroad company: All construction costs to the railroad company. [Formerly 763.280]

824.250 Apportionment when federal funds available. In the event any protective device is to be installed or altered at an existing or relocated crossing or any reconstruction or alteration is made at an existing separation structure, with the aid of any federal funds administered by the Federal Highway Administration of the United States Department of Transportation, the Oregon Department of Transportation shall, unless the parties agree otherwise:

(1) Apportion the amount of such federal funds to payment of installation, reconstruction, or alteration costs; and

(2) Apportion the remaining costs of installation, reconstruction, alteration, and maintenance as provided by ORS 824.238 and 824.242 to 824.248; however, in a case where the federal fund assistance equals or exceeds 75 percent of the cost of installing, altering and reconstructing protective devices at an existing or relocated crossing, the remaining costs, except for maintenance costs, may be allocated entirely to the Grade Crossing Protection Account. [Formerly 763.290]

824.252 Procedure when disagreement as to apportionment exists. (1) In any proceeding under ORS 824.206 or 824.226, where the application to the Department of Transportation states that the parties are not in agreement as to apportionment of costs, but the applicant is willing to advance the amount of money reasonably necessary to enable the respondent to complete the work which must be done by it or the amount reasonably necessary is available and can be advanced from the Grade Crossing Protection Account, the department shall set the application for hearing as soon as the calendar of the department permits on the questions of:

(a) The necessity for the project;

(b) The approval of the location and the engineering plans, including provisions for handling traffic during construction and the work to be performed by each party; and

(c) The sum to be advanced by the applicant or the account for the work to be done by the respondent.

(2) The Department of Transportation shall render as promptly as possible an interim order, effective within 20 days on such questions, reserving for later hearing and decision the question of the apportionment of costs. The interim order shall also direct the respondent to proceed upon receipt of the sum to be advanced by the applicant or the account without delay to perform the work to be done by respondent, integrating the

work with that of the applicant or its contractor in such manner that neither will unreasonably obstruct or delay the work of the other, to the end that the people of the state may have the use of the project at the earliest possible date.

(3) In the final order apportioning costs, the sum advanced by the applicant or the account shall be credited against its share of the costs. In the final order there shall also be credited against applicant's share of the costs any increase in the costs found by the Department of Transportation to be directly attributable to respondent's willful failure or refusal, after the effective date of the interim order, to proceed with its own work or to integrate the work with that of applicant or its contractor. [Formerly 763.300]

824.254 Reimbursement procedure for railroad and public authority. (1) Upon issuance of an order apportioning costs to the Grade Crossing Protection Account, the railroad company or the public authority in interest may submit to the Department of Transportation progress claims, not to exceed 80 percent of the apportionment, for reimbursement for the cost of labor, and other services provided to date of billing, and for the costs of materials stockpiled at the project site or specifically purchased and delivered for use on the project. Upon completion of the construction, reconstruction or alteration of a crossing, or of the installation or alteration of grade crossing warning or safety devices at a crossing, the railroad company or the public authority in interest shall present to the department for approval its claim for reimbursement for the costs thereof in the amount apportioned to the Grade Crossing Protection Account less progress payments previously made. When a claim is approved, the department shall, as funds become available, order the claim paid from the account.

(2) The department may make such audit as the department considers necessary before or after each such disbursement for the purpose of determining that the money is expended for the purposes and under the conditions authorized by ORS 824.242 to 824.248. By presentation of its claim, the railroad company and the public authority consent to make pertinent records showing costs of labor and materials available to the department.

(3) Notwithstanding subsection (1) of this section, upon issuance of an order apportioning costs to the Grade Crossing Protection Account, and upon agreement with the Department of Transportation, the railroad company or public authority in interest shall submit an estimate of the costs of the project. The railroad company or public authority in interest may submit statements for lump-sum reimbursement from the account during and at the completion of the construction, reconstruction or alteration of a crossing, or of the installation or alteration of a grade crossing warning or safety device at a crossing. [Formerly 763.310; 1997 c.249 §256; 1999 c.596 §1]

824.256 Expense contributed by public held in trust by railroad company. Any portion of the cost or expense that is contributed or borne by any public authority under ORS 824.200, 824.204, 824.206, 824.210 to 824.218 and 824.226 shall forever be considered as held in trust by the railroad company receiving the same or the benefits thereof, and no part thereof shall be considered a part of the value of the property of the railroad company upon which it is entitled to receive a return. [Formerly 763.320]

824.258 [Formerly 763.900; repealed by 1997 c.249 §257]

EMPLOYEE SAFETY REGULATIONS

824.300 Required crews on trains; exception. No person or officer of court operating any railroad or railway in this state engaged as a common carrier in the transportation of freight or passengers shall operate over its road, or any part thereof, in excess of 15 continuous miles, or suffer or permit to be run over the same, outside of yard switching limits, any passenger, mail or express train propelled by any form of motive power and consisting of four or more cars with less than a full passenger crew consisting of one engineer, one apprentice engineer, one conductor, one brakeman and one flagger. None of said crew shall be required or permitted to perform the duties of train baggage handler or express messenger while on such road. This section shall not apply to operations in which lesser crew requirements are established by agreement between the common carrier and the organizations representing railroad employees. [Formerly 764.110; 1997 c.249 §258]

824.302 Qualification of flagger. The flagger in the crews required under ORS 824.300 shall have had at least six months' experience in train service. [Formerly 764.130; 1997 c.249 §259]

824.304 Guarding frogs, switches and guardrails. (1) Every person owning or operating a railroad in this state, shall so adjust, fill, block and securely guard the frogs, switches and guardrails of their roads as to protect and prevent the feet of employees and other persons from being caught therein.

(2) Any person owning or operating a railroad in this state shall be liable for any damage caused from a failure to comply with this section. [Formerly 764.140]

824.306 Shelter of car repairers. (1) No person owning, controlling or operating any line of railroad in this state shall build, construct, reconstruct or repair railroad car equipment or motive power in the state without first erecting and maintaining at every division terminal, or other point where five employees or more are regularly employed on such work, a shed over a sufficient portion of the tracks used for such work, so as to provide that all employees regularly employed in such work are sheltered and protected from rain and other inclement weather.

(2) This section does not apply at points where fewer than five employees are regularly employed in such work, nor at points where it is necessary to make light repairs only on equipment or motive power, nor to equipment loaded with time or perishable freight, nor to equipment when trains are being held for the movement of equipment. As used in this subsection, "light repairs" does not include repairs usually made in roundhouse, shop or shed upon well-equipped railroads. [Formerly 764.150]

824.308 Railroads to provide first aid training for employees. (1) Every railroad operating in this state shall provide to any employee who is an engineer, conductor or yard foreman a first aid training course that conforms to standards at least equivalent to the American Red Cross eight-hour first aid training course and cardiopulmonary resuscitation course.

(2) Railroads shall bear all costs incurred for the first aid training course described in subsection (1) of this section and shall pay wages to employees who are attending the course. [Subsection (1) formerly 764.170; subsection (2) formerly 764.180]

824.310 Immunity from liability of persons providing first aid treatment. No person may recover in an action against a railroad or employee who has received the first aid training described in ORS 824.308 (1) for any damages directly or indirectly resulting from first aid treatment rendered by such employee unless the complaining party establishes that the treatment violates the standards of reasonable care under the circumstances including the existence of emergency conditions in which the treatment was rendered. [Formerly 764.190]

824.312 [Formerly 764.900; repealed by 1997 c.249 §260]

824.314 [Formerly 764.990; repealed by 1997 c.249 §260]

PASSENGER RAIL

824.400 Passenger rail plan. (1) The Department of Transportation shall develop and implement a passenger rail plan for the purposes of increasing ridership on passenger trains and increasing ticket revenue. The passenger rail plan must include, but is not limited to, the following:

(a) A marketing strategy.

(b) Strategies for boosting ridership.

(c) Strategies for boosting tourism through the use of passenger rail.

(2) The department may coordinate with other state agencies to develop the plan. [2015 c.225 §3]

Note: 824.400 to 824.430 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

824.410 Quarterly report to Legislative Assembly. The Department of Transportation shall submit a quarterly report on the performance of passenger rail to the interim committees of the Legislative Assembly related to transportation in the manner provided under ORS 192.245. The report must include a summary of the number of passengers utilizing passenger rail and on-time performance for the previous quarter. [2015 c.225 §5]

Note: See note under 824.400.

824.420 Cascades Rail Corridor. (1) The Department of Transportation may enter into agreements with the Washington State Department of Transportation and the British Columbia Ministry of Transportation and Infrastructure to:

(a) Develop a plan to document the shared vision, goals and objectives for passenger rail service within the Cascades Rail Corridor.

(b) Develop a plan to achieve performance goals, manage fleet assets, share costs, prioritize investments and resolve interagency disputes.

(c) Propose funding options to the respective legislative bodies to support the operation of passenger trains within the corridor.

(d) Develop a stakeholder outreach program.

(e) Oversee operations and marketing of daily passenger rail service in the corridor.

(2) The Department of Transportation may enter into agreements with the Washington State Department of Transportation to coordinate state rail plans. [2013 c.112 §1]

Note: See note under 824.400.

824.430 Annual report to Legislative Assembly. Before January 1 of each odd-numbered year, the Department of Transportation shall report to the Legislative Assembly in the manner provided in ORS 192.245 about the following:

(1) The status of agreements with the Washington State Department of Transportation and the British Columbia Ministry of Transportation and Infrastructure regarding the Cascades Rail Corridor.

(2) The performance of passenger rail service within the corridor.

(3) The financial status of the corridor and financial needs for passenger rail service within the corridor. [2013 c.112 §2]

Note: See note under 824.400.

PENALTIES

824.990 Civil penalties. (1) In addition to all other penalties provided by law:

(a) Every person who violates or who procures, aids or abets in the violation of ORS 824.060, 824.084, 824.088, 824.304 (1) or 824.306 (1) or any order, rule or decision of the Department of Transportation shall incur a civil penalty of not more than $1,000 for every such violation.

(b) Every person who violates or who procures, aids or abets in the violation of any order, rule or decision of the department promulgated pursuant to ORS 824.052 (1), 824.056 (1), 824.068, 824.082 (1) or 824.208 shall incur a civil penalty of not more than $1,000 for every such violation.

(2) Each such violation shall be a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that procures, aids or abets in the violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.

(3) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS 183.745.

(4) The department may reduce any penalty provided for in subsection (1) of this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served. [Formerly 824.112]

824.992 Criminal penalties. (1) Violation of ORS 824.062 is a Class D violation.

(2) Violation of ORS 824.064 is a Class A misdemeanor.

(3) Violation of ORS 824.082 (1), 824.084 or 824.088 by a railroad is a Class A violation.

(4) Violation of ORS 824.082 (2) is a Class A violation.

(5) As used in subsection (3) of this section, "railroad" means a railroad as defined by ORS 824.020 and 824.022.

(6) Subject to ORS 153.022, violation of ORS 824.104 (1), 824.106 or 824.108 or any rule promulgated pursuant thereto is a Class A violation.

(7) A person is subject to the penalties under subsection (8) of this section if the person knowingly:

(a) Transports by railroad any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

(c) Materially violates any terms of permit or authority issued to the person under ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under ORS 824.050 to 824.110 for the safe transportation of hazardous wastes.

(e) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.

(8) Subject to ORS 153.022, violation of subsection (7) of this section is a Class B misdemeanor. Each day's violation is a separate offense.

(9) Violation of ORS 824.300 or 824.302 is a Class D violation.

(10) Violation of ORS 824.304 is a Class A violation.

(11) Violation of ORS 824.306 by any railroad company or officer or agent thereof, or any other person is a Class D violation. Each day's violation is a separate offense. [Formerly 824.114; 1999 c.1051 §232; 2011 c.597 §109]

Chapter 825

2019 EDITION

Motor Carriers

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GENERAL PROVISIONS

825.005 Definitions. As used in this chapter:

(1) "Carrier" or "motor carrier" means for-hire carrier or private carrier.

(2) "Cartage carrier" means any person who undertakes to transport any class of property by motor vehicle for compensation when the transportation is performed wholly within an incorporated city or a commercial zone adjacent to an incorporated city.

(3) "Certificate" means an authority issued to a for-hire carrier under ORS 825.110.

(4) "Combined weight" means the weight of the motor vehicle plus the weight of the maximum load which the applicant has declared such vehicle will carry. Any declared combined weight is subject to audit and approval by the Department of Transportation.

(5) "Department" means the Department of Transportation.

(6) "Extreme miles" or "extreme mileage" means the total miles operated by a vehicle over the public highways, except the extra miles necessarily operated in traversing detours or temporary routes on account of road blockades in the state.

(7) "For-hire carrier" means:

(a) Any person who transports persons or property for hire or who publicly purports to be willing to transport persons or property for hire by motor vehicle; or

(b) Any person who leases, rents or otherwise provides a motor vehicle to the public and who in connection therewith in the regular course of business provides, procures or arranges for, directly, indirectly or by course of dealing, a driver or operator therefor.

(8) "Household goods" means the personal effects or other property used or to be used in a dwelling but does not include property transported from a store or factory or property exclusively for office use.

(9) "Motor vehicle" means any self-propelled vehicle and any such vehicle in combination with any trailing units, used or physically capable of being used upon any public highway in this state in the transportation of persons or property, except vehicles operating wholly on fixed rails or tracks and electric trolley buses. "Motor vehicle" includes overdimension vehicles or vehicles permitted excessive weights pursuant to a special authorization issued by a city, county or the Department of Transportation.

(10) "Permit" means an authority issued to a carrier under ORS 825.102, 825.106, 825.108 or 825.127.

(11) "Private carrier" means any person who operates a motor vehicle over the public highways of this state for the purpose of transporting persons or property when the transportation is incidental to a primary business enterprise, other than transportation, in which such person is engaged.

(12) "Privilege taxes" means the weight-mile tax and fees prescribed in this chapter.

(13) "Property" includes, but is not limited to, permanent loads such as equipment, appliances, devices, or ballast that are attached to, carried on, or made a part of the vehicle and that are designed to serve some functional purpose.

(14) "Public highway" means every street, alley, road, highway and thoroughfare in this state used by the public or dedicated or appropriated to public use.

(15) "Transit-type motor vehicle" means any passenger-carrying vehicle that does not have a separate space for transporting baggage or express.

(16) "Transporter" has the meaning given that term in ORS 466.005. [Formerly 767.005; 1997 c.275 §34; 2003 c.754 §1; 2007 c.465 §8; 2009 c.433 §1; 2015 c.138 §41; 2017 c.45 §2]

825.007 Policy. (1) The business of operating as a motor carrier of persons or property for hire upon the highways of this state is declared to be a business affected with the public interest. It is hereby declared to be the state transportation policy to do the following:

(a) Promote safe, adequate, economical and efficient service and to promote the conservation of energy.

(b) Promote sound, economic conditions in transportation.

(c) Encourage the establishment and maintenance of reasonable rates for transportation services, without unjust discriminations, undue preferences or advantages or unfair or destructive competitive practices.

(d) Provide specific state action immunity against all antitrust claims and prosecution in those instances when carriers lawfully develop, publish and charge rates relating to the transportation of household goods and joint line rates relating to the transportation of other property and provide services specifically prescribed and subject to regulation by the Department of Transportation and in those instances when carriers lawfully engage in prior consultation for purposes described in this paragraph.

(2) The volume of motor carrier traffic presents dangers and hazards on public highways and makes it imperative that:

(a) Stringent rules be employed, to the end that the highways may be rendered safe for the use of the general public;

(b) The wear of such highways be controlled;

(c) A minimum of inconvenience to other users of the highways be effected;

(d) A minimum hindrance and stoppage to other users of the highways compatible with needs of the public for adequate transportation service, be effected;

(e) The highways be safeguarded from improper or unnecessary usage;

(f) Operation by irresponsible persons or any other operation threatening the safety of the public or detrimental to the general welfare be prevented;

(g) Congestion of traffic on the highways be minimized;

(h) The various transportation agencies of the state be adjusted and correlated so that public highways may serve the best interest of the general public; and

(i) A method of assessing privilege taxes be provided to enable the further construction of highways and to provide for the operation, preservation and maintenance of highways already built.

(3) The Legislative Assembly hereby declares that to effect the ends and purposes listed in this section, this chapter is adopted. [Formerly 767.020; 2015 c.283 §13]

825.010 Compliance with chapter required. No for-hire carrier or private carrier shall operate any motor vehicle for the transportation of persons or property, or both, on any public highway in this state except in accordance with the provisions of this chapter. [Formerly 767.040; 1997 c.275 §35]

ECONOMIC AND SAFETY REGULATION

(Applicability)

825.015 Nonapplicability of chapter to certain vehicles used in nonprofit transportation of passengers. (1) Except as provided in ORS 825.030, this chapter does not apply to motor vehicles with a seating capacity of less than 16 persons while used in nonprofit operation for commuting to job, job training or educational facilities.

(2) For the purposes of this section, "nonprofit operation" means a voluntary commuter ridesharing arrangement that may charge a fee to defray expenses but remains nonprofit in its operation without reference to any entity that may sponsor it. In establishing the fee, the following items may be included as expenses:

(a) The cost of acquiring the vehicle;

(b) Insurance;

(c) Maintenance of the vehicle;

(d) Fuel; and

(e) Other reasonable expenses attributable to use of the vehicle for ridesharing purposes. [Formerly 767.022; 2007 c.31 §2]

825.017 Nonapplicability of chapter to certain persons and vehicles. Except as provided in this section and ORS 825.026 and 825.030, this chapter does not apply to the persons or vehicles described in this section. The exemption under this section applies to the following persons and vehicles:

(1) Vehicles being used by, or under contract with, any school board, district or person responsible for the administration of elementary or secondary school activities, and engaged exclusively in transporting students or combinations of students and other persons to or from school, to or from authorized school activities or other activities sponsored by the governing board of a public university listed in ORS 352.002, or for purposes provided under ORS 332.427. This exemption shall not be affected by the charging of a fee to cover the costs of the transportation.

(2) Vehicles being used in a taxicab operation if the vehicle:

(a) Is a passenger vehicle with a passenger seating capacity that does not exceed five;

(b) Carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time; and

(c) Is transporting persons or property, or both, between points in Oregon.

(3) Vehicles being used for the transportation of property by private carrier by means of a single vehicle or combination of vehicles with a combined weight that does not exceed 8,000 pounds.

(4) Vehicles being used in operating implements of husbandry.

(5) Vehicles being used as a hearse or ambulance.

(6) Vehicles being used over any private road or thoroughfare.

(7) Vehicles being used on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products as defined in ORS 321.005, or the product of forest products converted to a form other than logs at or near the harvesting site, or when used for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with:

(a) An agency of the United States;

(b) The State Board of Forestry;

(c) The State Forester; or

(d) A licensee of an agency named in this subsection.

(8) Vehicles being used on any county road for the removal of forest products as defined in ORS 321.005, or the products of forest products converted to a form other than logs at or near the harvesting site, if:

(a) The use is pursuant to a written agreement entered into with the State Board of Forestry, the State Forester or an agency of the United States, authorizing the owner of the motor vehicle to use the road and requiring the owner to pay for or to perform the construction or maintenance of the county road, including any operator of a motor vehicle retained to transport logs, poles and piling for the owners who are exempt under this section;

(b) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of the county road; and

(c) Copies of the agreements or permits required by this subsection are filed with the Director of Transportation.

(9) Vehicles being used in transporting persons with disabilities, with or without their supervisors or assistants, to or from rehabilitation facilities or child care services if the motor vehicle is a passenger motor vehicle with a seating capacity of not more than 12 passengers. The exemption provided by this subsection applies only when the motor vehicle is operated by or under contract with any person responsible for the administration of rehabilitation facilities as defined in ORS 344.710 to 344.730 or child care services provided by a facility licensed under ORS 329A.030 and 329A.250 to 329A.450.

(10) Vehicles owned or operated by the United States or by any governmental jurisdiction within the United States except as provided in ORS 825.022. This chapter does apply to vehicles when owned or operated:

(a) As a carrier of property for hire;

(b) By a transportation district organized under ORS 267.510 to 267.650;

(c) By a county service district authorized to provide public transportation under ORS 451.010; or

(d) By an intergovernmental body formed by two or more public bodies, as defined in ORS 174.109, to provide public transportation.

(11) Vehicles owned or operated by a mass transit district organized under ORS 267.010 to 267.394.

(12) Vehicles owned or operated by, or under contract with, a person responsible for the construction or reconstruction of a highway under contract with the Department of Transportation or with an agency of the United States when operated within the immediate construction project as described in the governmental agency contract during the construction period.

(13) Vehicles owned or operated by, or under contract with, a charitable organization when exclusively engaged in performing transportation, either one way or round trip, necessary to the operation of the charitable organization. As used in this subsection, "charitable organization" means an organization that has no capital stock and no provision for making dividends or profits, but derives its funds principally from public and private charity and holds them in trust for the promotion of the welfare of others and not for profit. Any organization claiming an exemption under this subsection shall file an affidavit with the department stating that it is organized and operated in accordance with the requirements of this subsection.

(14) Passenger vehicles with a passenger seating capacity that does not exceed five when used in the transportation of new telephone books.

(15) A vehicle that is used in a limousine service operation in which the destination and route traveled may be controlled by the passenger and the fare is calculated on the basis of any combination of initial fee, distance traveled and waiting time if the vehicle:

(a) Is a passenger vehicle with a passenger seating capacity that does not exceed eight;

(b) Carries passengers for hire between points in Oregon; and

(c) Operates on an irregular route basis.

(16) Fire trucks and rescue vehicles that are designated as emergency vehicles by the Department of Transportation under ORS 801.260, while involved in emergency and related operations.

(17) A person who provides services related to the packing or loading of household goods if the person does not:

(a) Provide or operate a motor vehicle for the movement of the household goods; and

(b) Act as an agent for any person who does provide or operate a motor vehicle for the movement of the household goods.

[Formerly 767.025; 1997 c.275 §40; 1997 c.699 §1; 2003 c.589 §1; 2003 c.754 §6; 2005 c.228 §1; 2007 c.31 §3; 2007 c.70

§352; 2009 c.433 §2; 2015 c.283 §1; 2015 c.716 §16; 2015 c.767 §216]

825.018 Report from owners or operators of vehicles exempted by ORS 825.017; rules. Owners or operators of vehicles exempt from the provisions of ORS chapter 825 by ORS 825.017 shall file an annual report with the Department of Transportation showing the miles of travel by registered weight class of vehicle for each exempt vehicle. The department shall determine by rule the form and manner of the report. [Formerly 767.026]

825.020 Applicability of chapter to certain vehicles and combinations over 26,000 pounds. Except as otherwise provided in this section and ORS 825.030, this chapter does not apply to the persons or vehicles described in this section. The provisions of ORS 825.100, 825.137, 825.139, 825.141, 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), 825.212, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498, 825.504, 825.506, 825.507, 825.508 and 825.515 apply to any of the following vehicles or combinations of vehicles with a combined weight of more than 26,000 pounds:

(1) Vehicles being used exclusively in the transportation of United States mail on a trip basis.

(2) Vehicles being used in the transportation of persons for hire, in vehicles with a seating capacity of more than five persons, within a city and within three air miles of the city. When the three air mile radius extends into the corporate limits of another city, the two cities shall be considered as one city for the purposes of this subsection. The following apply to this subsection:

(a) Service may also be provided to or from any area surrounding the area described under this subsection so long as the service does not compete with a carrier granted authority by the Department of Transportation under this chapter to operate in that surrounding area.

(b) Any vehicle exempt from the provisions of this chapter under this subsection is subject to regulation by the city or cities in which it is operated.

(3) Vehicles being used for the purpose of transporting persons or property in connection with the patrolling of forests for the prevention or fighting of forest fires.

(4) Vehicles being used in towing or otherwise transporting vehicles at the direction of a police officer or in servicing, towing or transporting wrecked or disabled vehicles, or in towing or transporting a replacement vehicle for such wrecked or disabled vehicle if the vehicle:

(a) Is not otherwise used in transporting goods and merchandise for compensation; and

(b) In the case of towing, is specially constructed for that use or has a combined weight not exceeding 8,000 pounds.

(5) Vehicles being used by a for-hire carrier to transport within this state free or at reduced rates:

(a) The carrier's officers, agents or employees, or dependent members of the families of those individuals, or the personal effects or household goods of those individuals.

(b) Ministers of religions, inmates of hospitals and individuals exclusively engaged in charitable and eleemosynary work.

(c) Indigent, destitute and homeless individuals and the necessary agents employed in the transportation.

(d) Witnesses attending legal investigations in which the carrier is interested.

(e) Persons injured in wrecks and physicians and nurses attending those persons.

(f) Persons providing relief in cases of general epidemic, pestilence or other emergency.

(g) Persons traveling under commuter, party or excursion passenger tickets, if available to all persons applying under like circumstances or conditions.

(h) Persons traveling under an exchange of passes between for-hire carriers.

(6) Vehicles being used to transport plants, artificial and natural flowers and accompanying florist accessories in movements originating at retail shops.

(7) Any vehicle used by a person licensed under ORS 508.235 while the person is transporting the person's own, unsold catch of fish from the point of landing to the first point where fish from the catch will be sold, placed in storage or processed in any way.

(8) Vehicles owned or operated by truck leasing companies operated empty over the public highways for the purpose of relocation of equipment. This exemption does not apply to motor vehicles operated empty as a result of or for the purpose of transporting passengers or property. [Formerly 767.027; 2007 c.31 §4]

825.022 Nonapplicability of certain provisions to vehicles and combinations. The provisions of ORS 825.160, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496 and 825.515 do not apply to any of the following:

(1) A vehicle or combination of vehicles with a combined weight of 26,000 pounds or less.

(2) A vehicle being used in the transportation of persons for hire if the operation:

(a) Is performed by a nonprofit entity;

(b) Is performed by use of vehicles operating in compliance with ORS 820.020 to 820.070; and

(c) Is approved by the Department of Transportation as complying with paragraphs (a) and (b) of this subsection.

(3) A vehicle owned or operated by a transportation district organized under ORS 267.510 to 267.650.

(4) A vehicle owned or operated by a county service district authorized to provide public transportation under ORS 451.010.

(5) A vehicle owned or operated by an intergovernmental body formed by two or more public bodies, as defined in ORS 174.109, to provide public transportation. [Formerly 767.028; 2007 c.465 §11; 2015 c.283 §3]

825.024 Applicability to farm vehicles. (1) Except as provided in ORS 825.026 and 825.030 or as otherwise provided in this section, this chapter and ORS 815.237 do not apply to a motor vehicle or combination owned or leased by a farmer who meets the qualifications under ORS 805.310 if the vehicle or combination:

(a) Is used for transportation described under ORS 805.390.

(b) Is used for transporting sand, gravel, rock, dirt, debris, cinders or asphaltic concrete mix to a project of a district or corporation organized under ORS chapter 545, 547 or 554 when the project is being constructed on land owned or leased by the farmer and the materials are directly related to the construction of the project.

(c) Has three or fewer permanent axles and is used in part to provide transportation services for hire when such services relate to the farm of another and are services that the vehicle owner could perform in the operation of the owner's farm under farm vehicle registration issued under ORS 805.300 or with the farm device issued under ORS 805.400. For purposes of this paragraph, a single drop axle is not a permanent axle.

(d) Is a combination of a pickup truck and a trailer and is used in part to provide transportation services for hire when such services relate to the farm of another and are services that the vehicle owner could perform in the operation of the owner's farm under farm vehicle registration issued under ORS 805.300 or with the farm device issued under ORS 805.400.

(2) Vehicles or combinations that either are registered under ORS 805.300 or have a farm device issued under ORS 805.400 are subject to the provisions of ORS 825.210, 825.250 and 825.252 if the vehicles or combinations:

(a) Are operating in interstate commerce; or

(b) Have a combined weight of more than 80,000 pounds.

(3) Any farmer with a vehicle registered under ORS 805.300, or with a farm device issued under ORS 805.400, may obtain a permit under ORS 825.102 that will authorize partial use of the vehicle to provide transportation services for hire.

(4) Any person issued a permit as described in subsection (3) of this section must comply with record keeping requirements and reporting requirements that the Department of Transportation determines necessary for the department to administer this section. The department may deny the exemptions from provisions of this chapter provided to persons issued permits as described in subsection (3) of this section if a person fails to comply with record keeping requirements. [Formerly 767.030; 1997 c.249 §262; 1997 c.673 §1; 2003 c.589 §2; 2007 c.31 §5; 2007 c.794 §4]

825.026 Applicability of chapter to certain otherwise exempt vehicles when transporting hazardous wastes. This chapter does not apply to the vehicles described in ORS 825.017 and 825.024 except as provided in ORS 825.030 and except that the vehicles are subject to ORS 825.258 and 825.990 (3) and (4) and the rules adopted by the Department of Transportation relating to the safety of the vehicles while engaged in the transportation of hazardous wastes on public highways. [Formerly 767.032; 2007 c.31 §6]

825.028 Transportation services for charitable organizations. (1) For-hire carriers may provide transportation of household goods for charitable organizations or civic nonprofit organizations and festivals at no charge or at reduced rates or in exchange for promotional services by the charitable organization or civic nonprofit organization or festival.

(2) As used in this section:

(a) "Charitable organization" has the meaning given that term in ORS 825.017 (13).

(b) "Civic nonprofit organization" or "festival" means an organization or festival classified under the Internal Revenue Code as having a 501(c)(3) or 501(c)(4) tax exempt status. [Formerly 767.038; 2003 c.589 §8; 2015 c.283 §14]

825.030 Application of chapter to interstate and foreign commerce. This chapter applies to interstate and foreign commerce, except insofar as it may be in conflict with the provisions of the Constitution and the laws of the United States. Nothing in this chapter exempts a person

from federal motor carrier safety regulations when operating in interstate or foreign commerce. [Formerly 767.045; 2007 c.31 §1]

825.032 Nonapplicability of economic regulation to specified vehicles. Except as otherwise provided in this section, this chapter does not apply to the persons or vehicles described in this section. The provisions of ORS 825.250, 825.252, 825.254, 825.256, 825.258, 825.260, 825.950, 825.955, 825.960 and 825.990 apply to the following persons and vehicles:

(1) A vehicle owned or operated by a person prior to the time the vehicle is placed in commercial operation.

(2) A person transporting the person's own commercial fishing boat if the combined weight of the vehicle, trailer and boat is 15,000 pounds or less.

(3) A vehicle being used for the purposes of forest protection and fire suppression if the vehicle is necessary in order to comply with ORS 477.615 or 477.650 or a similar federal statute, including but not limited to a vehicle being moved to or from the forest protection district operation area. [2003 c.589 §4]

(Certificates and Permits)

825.100 Certificate or permit required for commercial transportation of persons or property on public highways. No person shall operate any motor vehicle, whether loaded or empty, on any highway in this state as a carrier in the transportation of persons or property without possessing, in addition to any license required by any other law, a valid certificate or permit from the Department of Transportation authorizing the proposed operation. Each operation of a motor vehicle in violation of this section is a separate violation, whether the prohibited operations occur within the same day or different days or relate to the same motor vehicle or different motor vehicles. [Formerly 767.105]

825.102 Issuance of permits to intrastate for-hire carriers; rules. (1) Except as provided in subsection (6) of this section and ORS 825.135, the Department of Transportation shall issue a permit to a person to provide transportation service as a for-hire carrier over any highway in this state in intrastate commerce if the person applies for the permit and the department is satisfied that the person is able to comply with the provisions of this chapter and the rules of the department.

(2) In deciding whether to approve an application for a permit under this section, the department shall consider any evidence demonstrating that the applicant is unable to comply with this chapter and the rules of the department and shall deny the application if the applicant does not meet the financial responsibility and safety requirements established by this chapter and by rules of the department.

(3) If an application for a permit under this section is denied, the department shall notify the applicant of the reasons for denial. The applicant is entitled to a hearing if written request for a hearing is made within 15 days of the notification of denial.

(4) A permit granted under this section is not transferable. The department shall determine by rule what constitutes transfer of a permit.

(5) A permit issued under this section may be suspended or revoked as provided in this chapter. Grounds for suspension or revocation include, but are not limited to, failure to maintain compliance with safety requirements, failure to maintain compliance with financial responsibility requirements and failure to report or pay fees, taxes or penalties due the department.

(6) The department may not issue a permit under this section for transportation of household goods. For-hire carriers of household goods are subject to the certificate provisions of ORS 825.110. [1995 c.306 §2; 2015 c.283 §15]

825.104 Federal registration and financial responsibility requirements for interstate carriers. An interstate for-hire carrier or private carrier required to obtain a United States Department of Transportation registration number engaged or to engage in interstate operations may not perform transportation services on the public highways of this state without having first complied with federal registration and financial responsibility requirements. [Formerly 767.155; 2001 c.335 §4; 2007 c.465 §5]

825.105 Confirmation of federal registration and financial responsibility for interstate motor carriers; rules. (1) The Department of Transportation may enter into an agreement with the authorized representatives of any jurisdiction outside this state for the purposes of confirming federal registration and accepting proof of financial responsibility for interstate motor carriers.

(2) A motor carrier registered in a jurisdiction that is a party to an agreement entered into under this section is considered registered for interstate operations in Oregon for the purpose of ORS 825.104.

(3) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section.

(4) An agreement may not provide for any benefit, exemption or privilege with respect to any fees or taxes levied or assessed against the use of highways or use or ownership of vehicles. [2007 c.465 §4]

825.106 Issuance of permits to carriers described in ORS 825.020. Upon receipt of the information in writing required by the application form for permits in that class and in compliance with the law, rules and regulations of the Department of Transportation, permits shall be issued to motor carriers described in ORS 825.020, conditioned that the proposed operation will not be attended with substantial damage to the highway or danger to the users thereof, to adjacent property or facilities or to the public. The applicant is entitled to a hearing by the department if the application has been declined by the department. [Formerly 767.157]

825.108 Issuance of permits to private carriers; exception. (1) Upon receipt of the information in writing required by the application form for permits in that class and in compliance with the law and the rules and regulations of the Department of Transportation, permits shall be issued to private carriers, conditioned that the proposed operation will not be attended with substantial damage to the highway or danger to the users thereof, to adjacent property or facilities or to the public. The applicant is entitled to a hearing by the department if the application has been declined by the department.

(2) A person acting as a private carrier need not obtain a permit from the department for operating any vehicle or combination of vehicles with a combined weight of 26,000 pounds or less. [Formerly 767.150]

825.110 Issuance, extension or transfer of certificate to carriers of household goods; hearings; findings; rules. (1) When a person files with the Department of Transportation an application for a certificate to operate as a for-hire carrier of household goods, for the extension of an existing certificate or for the transfer of a certificate, the department may issue, extend or transfer the certificate if the department determines the applicant meets the requirements of subsection (2) of this section.

(2) If the application for issuance, extension or transfer of a certificate under this section is the subject of a hearing, the department shall issue the certificate if the applicant has complied with this chapter and the rules of the department, and if the department finds from the record and the evidence submitted at the hearing that:

(a) The applicant is fit, willing and able to perform the transportation service proposed;

(b) The applicant has certified that the vehicles listed on the application comply with all Oregon laws and rules covering vehicle safety and operations and will be so maintained;

(c) The service proposed will not be attended with substantial damage to the highways or danger to other highway users or to the public;

(d) The rates or contracts proposed by the applicant, if an intrastate operator, are approved by the department; and

(e) The applicant can and will furnish and file the insurance, bond or substitute security or qualify as self-insurer as provided in this chapter.

(3) If the department does not find that all the conditions provided in subsection (2) of this section are satisfied, the department may deny the application or may defer issuance of the certificate pending compliance by the applicant with those conditions provided in subsection (2) of this section.

(4) If an application for a certificate under this section is denied, the department shall notify the applicant of the reasons for denial. The applicant is entitled to a hearing if written request for a hearing is made within 15 days after the notification of denial.

(5) If the applicant fails to appear at the time and place fixed for the hearing, the application may be denied.

(6)(a) Pending determination of application for transfer of a certificate, the department may grant approval of the temporary operation of the certificate by the prospective transferee or, if the transferor's service to the public may be substantially impaired, may authorize temporary management of the transferor's motor carrier operations by the prospective transferee.

(b) Service performed under temporary authority granted under this section is subject to all provisions of this chapter and the rules of the department.

(7) The department may require an applicant for a certificate to operate as a for-hire carrier of household goods issued under this section to complete a criminal background check. The department shall adopt rules describing the standards used by the department to determine if an applicant is unfit based on the results of the applicant's criminal history. [Formerly 767.135; 2009 c.433 §3; 2015 c.283 §16]

825.115 Temporary authority to provide transportation services; duration. (1) The Department of Transportation may grant temporary authority for a for-hire carrier to provide transportation of household goods

where it is in the public interest. Such temporary authority may be authorized only if the department receives a request for service from a user of the proposed transportation service, and if the department concludes, after investigation, that the request represents a true need or is in the public interest.

(2) The department shall cancel immediately any temporary authority granted under this section if the department determines that the temporary authority issued does not comply with requirements for grant of authority under ORS 825.110.

(3) The department may not grant temporary authority under this section for an initial period of more than six months.

(4) The department may renew temporary authority granted under this section one time for a period of not more than six months.

(5) A person who is granted temporary authority under this section may apply for permanent authority to provide the transportation service after the expiration of the temporary authority by making application in the manner provided for application for permanent authority under this chapter.

(6) A grant of temporary authority under this section does not establish any right to a grant of permanent authority under this chapter. [Formerly 767.167; 2009 c.433 §6; 2015 c.283 §17]

825.117 Certificate for emergency transportation services. (1) If any condition or emergency arises requiring relief in cases of general epidemic, pestilence or other calamitous visitation in the state or any community therein, wherein the public or community interest or the transportation of any persons or household goods requires, in the opinion of the Department of Transportation, the issuance of a certificate for emergency transportation services, the department may issue a certificate for emergency transportation services, the term of which shall be limited to a reasonable time to be determined by the department under the circumstances.

(2) The department may issue a certificate for emergency transportation services donated for the benefit of a charitable organization, if the services are transportation of persons or household goods and the services are not of a type ordinarily required in the operation of the organization. Notwithstanding any other provision of this chapter, a certificate issued pursuant to this subsection shall be issued without charge to the applicant. As used in this subsection "charitable organization" means any person organized and existing for religious or medical purposes or any political subdivision of this state.

(3) The emergency authority issued under this section does not convey any right to permanent authority and is not evidence of a need for permanent authority. [Formerly 767.170; 2009 c.433 §7]

825.125 Applications for authority; rules. The Department of Transportation shall prescribe forms of applications for certificates or permits for the use of applicants and shall make regulations for the filing thereof. [Formerly 767.125]

825.127 Permit for local cartage of household goods. The Department of Transportation may grant issuance of a permit to a for-hire carrier engaged in performing local cartage of household goods within areas designated by the department pursuant to ORS 825.240. [Formerly 767.145; 2009 c.433 §8]

825.129 Legal status of certificates. (1) Notwithstanding any provision of law, no certificate issued under this chapter, or any prior law, shall be assigned or otherwise transferred except as provided in ORS 825.110.

(2) No such certificate shall be construed to be a franchise or irrevocable or exclusive or to possess value for ratemaking purposes. However, upon the death of an individual holding a certificate:

(a) If the estate of such individual is admitted to probate, the executor or personal representative may continue the operation thereunder, for the purpose of transferring the certificate, for a period not to exceed two years from the date of death; or

(b) If the estate of such individual is not probated, all the heirs of the deceased holder of the certificate may file with the Department of Transportation an application for the transfer of the certificate together with an affidavit signed by the heirs stating the name of the person to whom the certificate is to be transferred. If any heir has not reached the age of majority or is otherwise legally incapacitated, the heir's parent or guardian shall sign for the heir. The affidavit shall be on a form prescribed and furnished by the department. Subject to the provisions of ORS 825.135, the department shall transfer the certificate to the person named as transferee in the affidavit.

(3) In determining the scope of authority to be transferred under subsection (2) of this section, the department shall consider, as evidence of past use under the certificate, only the services furnished during the two-year period immediately preceding the death of the certificate holder.

(4) If an application under subsection (2) of this section for the transfer of the certif-

icate is not filed within 18 months of the date of death, and if such certificate is not transferred within two years of the date of death, the certificate shall be deemed automatically revoked. [Formerly 767.186; 1997 c.275 §36]

825.135 Denial of certificate, permit, transfer or extension of authority; hearing; restriction. (1) As used in this section, "applicant" includes, but is not limited to, any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the carrier's authority.

(2) Notwithstanding any other provision of law, the Department of Transportation may not grant to an applicant a certificate, permit, transfer of any operating authority, extension of any operating authority or variance permit under ORS chapter 818 if the department has reasonable grounds to believe, based on information contained in department files and records, or based on evidence presented during a hearing with respect to an application filed under ORS 825.102, that any of the following apply:

(a) The applicant is not capable of conducting the transportation service contemplated, in compliance with the law and rules of the department.

(b) The applicant is or has been a repeated and intentional violator of the provisions of this chapter, of ORS chapter 818 or of the rules of the department. This paragraph does not apply to violations for which an applicant has been penalized under subsection (3) of this section.

(c) The information contained in the application pertaining to ownership, possession or control of the equipment or operation to be conducted is false.

(3) A person whose application has been denied under subsection (2) of this section is not eligible to renew the application or to operate or participate directly or indirectly in the proposed operation for a period of time ordered by the department. The period of time ordered by the department under this subsection shall in no event be less than a period of six months from the date application has been denied and shall continue until the applicant has complied with any other penalties ordered by the department under this or other provisions of this chapter. An applicant may renew an application without prejudice by past violations after the penalty period under this subsection.

(4) Upon request, any person whose application has been denied under subsection (2) of this section shall be granted a hearing. This subsection does not require a separate or additional hearing for applicants if the issues are addressed as part of any hearing on the application. After the hearing, the department shall grant or deny the application in conformity with the findings.

(5) Subsection (2) of this section shall be strictly construed for purposes described in this subsection and shall control over any other purposes or policy considerations under the laws relating to motor carriers. The department shall exercise the authority granted under subsection (2) of this section to assure that persons described in subsection (2)(b) of this section:

(a) Achieve an awareness of and respect for the provisions of this chapter, ORS chapter 818 and rules of the department.

(b) Do not legitimize activities that violate this chapter, ORS chapter 818 or the rules of the department by applying for and receiving any operating authority to continue previously unlawful activities.

(6) If the department determines that a carrier issued authority under this chapter is not providing requested transportation services that are within the authority of the carrier, the department shall limit the authority of the carrier to service that the carrier is actually providing unless the carrier provides full transportation services permitted under the carrier's authority. [Formerly 767.130; 1997 c.722 §4; 2009 c.433 §9; 2015 c.283 §18]

825.137 Cancellation, revocation or suspension of authority, generally. (1) Certificates and permits when issued shall be valid until suspended or revoked when the carrier is found by the Department of Transportation to be in violation of this chapter or ORS chapter 818. A variance permit issued under ORS chapter 818 shall be valid for the length of time for which it is issued unless prior to that time the permit is suspended or revoked by the Department of Transportation for violation of this chapter or ORS chapter 818.

(2) Certificates or permits, or variance permits issued pursuant to ORS chapter 818, may be suspended or canceled by the department based upon the department's own motion after notice and hearing, when the certificate or permit holder:

(a) Or agents or employees of the holder have repeatedly violated this chapter or other highway or motor laws of this state. In applying this paragraph the department may consider violations by agents or employees of the holder that occurred prior to the time they became agents or employees of the holder, but only if the agent or employee has a substantial interest or control, directly or indirectly, in or over the operation of the holder.

(b) Has repeatedly violated or avoided any order or rule of the department.

(c) Is a transporter of household goods and has repeatedly made unlawful rebates or repeatedly underestimated transportation charges to clients.

(d) Has repeatedly refused or has repeatedly failed, after being requested to do so, to furnish service authorized by certificate. The department in such cases may also, in the discretion of the department, restrict the certificate to conform with operations conducted.

(e) Has not, except for reasons beyond the control of the holder, transported household goods authorized by the certificate for a period exceeding 180 consecutive days immediately preceding the filing of the complaint in the proceeding. The department in these cases may also, in the discretion of the department, restrict the certificate to conform with operations performed that were required by the public convenience and necessity.

(f) Has not, except for reasons beyond the control of the holder, transported property authorized by the permit for a period exceeding one year immediately preceding the filing of the complaint in the proceeding.

(g) Has refused, or has failed, within the time provided, to file the annual report required by ORS 825.320 or has failed or refused to maintain records required by the department or to produce such records for examination within the time set by the department.

(h) Has failed to appear for hearing after notice that the certificate or permit is under investigation.

(i) Has filed with the department an application which is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.

(3) The department shall not suspend or revoke a certificate or permit of a vehicle or person described in ORS 825.020 unless the person or vehicle is in violation of this section and ORS 825.139, 825.141, 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), 825.212, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498, 825.504, 825.506, 825.507, 825.508 or 825.515. [Formerly 767.190; 1997 c.275 §37; 1997 c.722 §5; 1999 c.59 §249; 2015 c.283 §19]

825.139 Suspension or cancellation of authority for tax delinquency or failure to file bond; notice; hearings. (1) A certificate or permit is subject to suspension or cancellation, if the holder thereof:

(a) Is delinquent in reporting or paying any fees, taxes or penalties due the Department of Transportation, whether imposed under this chapter or under ORS chapter 826; or

(b) Has refused or failed, within the time provided, to file a deposit or bond requested under ORS 825.506.

(2) A written 10-day notice of suspension shall be given to the certificate or permit holder and unless a hearing is requested within such time, the certificate or permit shall be deemed suspended without further notice or hearing until the report, payment, bond or deposit is filed with the department.

(3) Upon a written 10-day notice by the department, a certificate or permit may be suspended or canceled for any of the reasons set forth in subsection (1) of this section. If the certificate or permit is suspended, the filing of the report, payment, bond or deposit will not reinstate the authority until the suspension period has expired, except on order of the department. [Formerly 767.786; 1997 c.275 §38; 2001 c.567 §9]

825.141 Reinstatement fee after suspension of authority. In addition to any other requirements of this chapter, a carrier whose operating authority has been suspended shall pay a reinstatement fee of $25 to the Department of Transportation before the operating authority may be reinstated, plus $5 for each vehicle issued a weight identifier under ORS 825.450, and shall demonstrate operational activity at the time of reinstatement. [Formerly 767.797; 2001 c.567 §3; 2019 c.491 §50]

825.145 [Formerly 767.120; repealed by 1997 c.275 §44]

(Insurance)

825.160 Liability insurance of carriers. (1) A person may not operate as a motor carrier on public highways of this state until the person has in effect a policy of public liability and property damage insurance.

(2) Insurance required under this section shall be provided at minimum limits the Department of Transportation by rule may prescribe, and upon such terms, conditions and provisions as the department may determine to be necessary for the reasonable indemnification of the patrons of the applicant and of the public against damage and injury for which the applicant may be liable by reason of the operation of any motor vehicle. However, the insurance policy required of a carrier or persons engaged solely in interstate commerce need not provide for the protection of their patrons.

(3) In fixing the amount of the insurance policy the Department of Transportation

shall give due consideration to the character and amount of traffic, the number of persons involved and the degree of danger which the proposed operation involves. [Formerly 767.195; 2007 c.465 §9]

825.162 Cargo insurance. (1) A certificate or permit may not be issued to any person to operate intrastate as a for-hire carrier of freight or express until the person has in effect cargo insurance in such penal sum as the Department of Transportation may deem necessary to protect adequately the interests of the public. This policy shall bind the assurer for loss of, or damage to, property carried in, upon or attached to the motor vehicles or other equipment operated by, for or under the control of the assured, or while in the care or custody of the assured.

(2) The department may waive the requirement of cargo insurance for any carrier whose service is limited to commodities not subject to material damage or loss through ordinary transportation hazards. [Formerly 767.200; 2011 c.73 §1]

825.164 Rules for compliance with ORS 825.160 and 825.162; notice prior to cancellation of insurance; suspension of authority when insurance inoperative. (1) The Department of Transportation by rule shall establish a system for determining how motor carriers demonstrate compliance with the insurance requirements of ORS 825.160 and 825.162. The system may require certification of compliance by the carrier or the filing of a policy with the department and may require different acts of compliance based on class of carrier or experience. The system shall also specify what acts constitute failure to comply for purposes of revocation or suspension of the carrier's authority.

(2) An insurance policy furnished under ORS 825.160 or 825.162 may not be canceled or otherwise terminated at any time prior to its expiration until the entity that executed the policy has filed with the department a notice of cancellation as provided in the policy. The cancellation is effective not less than 30 days from the date of receipt, and no agreement between the parties thereto shall operate to avoid this restriction upon cancellation.

(3) If any insurance policy required under ORS 825.160 or 825.162 becomes inoperative, the authority under the certificate or permit involved shall cease and be suspended insofar as it pertains to any affected vehicles until an insurance policy meeting the requirements of ORS 825.160 and 825.162 becomes effective and is accepted by the department. [Formerly 767.205; 2011 c.73 §2]

825.166 Deposit of securities or letter of credit. (1) In lieu of the insurance policy or surety bond, the holder of any certificate or permit may file with the Department of Transportation an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, or money, bank or savings and loan savings certificates, or bonds, negotiable by delivery, of the State of Oregon, school districts therein, or of any county therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both the principal and interest, equal in amount to the amount of the insurance policy or bond required by the department.

(2) So long as the deposit remains unencumbered the depositor is entitled to collect the interest upon such securities.

(3) The department shall hold the securities or letter of credit upon such terms as the department shall designate and approve pursuant to the provisions of this chapter, and shall deliver such securities or letter of credit to the State Treasurer, who shall receive and hold them subject to the lawful orders of the department. The State Treasurer and the surety or letter of credit issuer of the treasurer shall be liable upon the official bond or letter of credit for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by the treasurer in the mailing, insuring, shipping or delivering of any such securities or letter of credit, or of the interest coupons attached thereto as they mature.

(4) Such substituted security or letter of credit shall be subject to the liabilities imposed by the terms of the policy of insurance or surety bond or letter of credit then currently used by the department.

(5) If the securities or letter of credit provided for in this section are furnished in lieu of an insurance policy or bond, they shall not be subject to withdrawal or assignment by the holder of the certificate or permit, either voluntarily or by operation of law, until the expiration of one year after the holder of the certificate or permit, in connection with which they are furnished has:

(a) Substituted therefor a policy of insurance as provided in ORS 825.160 and 825.162;

(b) The certificate or permit canceled; or

(c) Surrendered such certificate or permit to the department for cancellation and has ceased operation thereunder.

(6) If any such securities become impaired in value, the department shall require additional protection by insurance, bond, letter of credit or substitute security to the extent that the value of the securities may

have become impaired. [Formerly 767.210; 1997 c.631 §559; 2011 c.73 §3]

825.168 Self-insurance. (1) Any for-hire carrier, engaged in interstate or interstate and intrastate operations within the State of Oregon, which is or becomes qualified as a self-insurer with the United States Department of Transportation in accordance with laws of the United States applicable to self-insurance by motor carriers, is exempt, so long as such qualification remains effective, from the provisions of ORS 825.160 to 825.166.

(2) The Department of Transportation may require proof of the existence and continuation of exempt status to be made by affidavit of the carrier in a form and at the times as the department may prescribe. [Formerly 767.215; 2007 c.465 §10]

825.170 Prohibited indemnification provisions in motor carrier transportation contracts; exceptions. (1) Except as provided under subsections (2) and (3) of this section, any provision in a motor carrier transportation contract that requires either party or either party's surety or insurer to indemnify or hold harmless the other party against liability for death, personal injury or property damage caused in whole or in part by the negligence or intentional acts or omissions of the other party is void.

(2) This section does not affect any provision in a motor carrier transportation contract that requires either party or either party's surety or insurer to indemnify another person against liability for death, personal injury or property damage that arises out of the fault of the indemnitor, or the fault of the indemnitor's agents, representatives or subcontractors.

(3) This section does not apply to any Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or any other agreement providing for the interchange, use or possession of intermodal chassis, intermodal containers or other intermodal equipment.

(4) As used in this section, "motor carrier transportation contract" means any written agreement for:

(a) The transportation of personal property for compensation or hire;

(b) Entry upon real property for the purpose of packing, loading, unloading or transporting personal property for compensation or hire; or

(c) A service incidental to an activity described in paragraph (a) or (b) of this subsection including, but not limited to, storage of personal property for compensation or hire. [2011 c.159 §2]

(Fees)

825.180 Application fee; transfer fee; refunds. (1) In addition to the other fees prescribed in this chapter:

(a) A person applying for a certificate under ORS 825.110 shall pay an application fee of $300.

(b) A person applying for a permit under ORS 825.127 shall pay a fee of $50.

(c) A person applying for a permit under ORS 825.102 shall pay an application fee of $300.

(d) A person applying for a change in a permit shall pay a fee of $50.

(e) A person applying for transfer of a certificate shall pay a fee of $300.

(f) A person making an application under any provision of this chapter not specified in this subsection shall pay a fee of $150 if the matter is set for a hearing.

(2) The Department of Transportation may refund the fees collected under this section if the applicant parties or their duly authorized representatives make written request for a refund, if:

(a) Request for withdrawal of the application was received by the department no later than five days before the hearing date, or if no hearing is required, such request must have been received prior to issuance of authority; and

(b) The department finds that:

(A) The applicant is not eligible to file the application;

(B) Certificate authority is not needed for the service intended;

(C) The applicant's death or serious illness precludes conducting the operations for which application was made; or

(D) The transferor withdraws consent for the transfer of the certificate. [Formerly 767.305; 1997 c.275 §39; 2003 c.754 §7; 2009 c.433 §10; 2015 c.283 §20]

(Regulatory Authority Generally)

825.200 Rules and orders regarding uniform cargo liability and joint line rates. (1) With respect to intrastate transportation by motor carriers, the Department of Transportation may adopt and enforce rules, and issue and enforce orders, related to:

(a) Uniform cargo liability, uniform bills of lading or receipts and uniform cargo credit; and

(b) Joint line rates, and routes, classifications and mileage guides for the purpose of providing antitrust immunity.

(2) Rules and orders adopted and issued under subsection (1) of this section are mandatory only in respect to transportation described in ORS 825.202. [1995 c.306 §3]

825.202 Department's authority over for-hire carriers of household goods. The Department of Transportation shall supervise and regulate the transportation of household goods by for-hire carriers and with respect to the transportation service shall:

(1) After hearing, regulate and prescribe just, fair and reasonable rates, classifications and practices.

(2)(a) Prescribe the kind and form of accounts, manifests, receipts and records to be used and kept pertaining to operation, prescribe the method and manner of keeping the accounts, manifests, receipts and records and require their preservation for such time as the department may determine proper; and

(b) Have access to the accounts, manifests, receipts and records with right of audit and inspection at all reasonable times.

(3) Require the filing of such periodical or other reports or data of such carriers as the department deems necessary.

(4) Require reasonably adequate service and facilities. [Formerly 767.405; 2015 c.283 §10]

825.204 Regulation of shipping receipts, changes of vehicles and routes, records and mileage for carriers of household goods; rules. The Department of Transportation may:

(1) Require every person operating as a for-hire carrier of household goods to issue a receipt in triplicate for freight received for shipment, which shall contain the name of the truck operator, date and place received, name of consignor, name of consignee, destination, description of shipment, weight, rate and charges, and signature of the carrier or agent; one of said receipts to be delivered to the consignor, one to consignee and one to be retained by carrier in its files.

(2) Prescribe rules governing amendments of certificates or permits covering additions to and withdrawals of vehicles and the extension or contraction of routes, and the filing of applications therefor.

(3) Prescribe forms of accounts and records to be kept, reports to be made and blanks to be used by for-hire carriers in transportation operations, and matters incidental thereto. [Formerly 767.460]

825.206 Duties of interstate carriers. A person engaged exclusively in the conduct of interstate transportation shall:

(1) Observe and comply with the laws of this state regulating traffic on its highways, or the operation of motor vehicles thereon, or limiting the size, weight or speed of motor vehicles; and

(2) Observe and comply with the laws of this state and with the orders, rules and regulations of the Department of Transportation, county courts, boards of county commissioners and municipal authorities to protect the highways from substantial damage and to promote safety to other users thereof, to adjacent property and facilities and to the public. [Formerly 767.430; 1997 c.249 §263]

825.208 [Formerly 767.440; repealed by 1997 c.275 §44]

825.210 Regulation of motor vehicles. The Department of Transportation may:

(1) Require the weighing of motor vehicles loaded and empty at reasonably frequent intervals;

(2) Inspect and require proper equipment and markings of motor vehicles and insure the making of necessary repairs, to promote efficient and safe operation; and

(3) Prescribe the character of appliances to be used on motor vehicles to establish correct mileage traveled by such vehicles and require the installation and proper repair and inspection of such appliances. [Formerly 767.450]

825.212 Regulation of mileage records; distinguishing marks. The Department of Transportation may:

(1) Prescribe such methods and means as the department determines to be necessary for checking, verifying and ascertaining the number of miles traveled by each motor vehicle operated by for-hire carrier and private carrier and insure that the mileage charged for is computed on basis of extreme mileage traveled.

(2) Prescribe distinguishing marks, such as signs, colors, lights, tags and plates as may be convenient or necessary for distinguishing classes of carriers or for protective or regulatory purposes; but not inconsistent with the Oregon Vehicle Code. [Formerly 767.895]

(Rate Regulation)

825.220 Temporary rate procedures. Notwithstanding ORS 825.202 (1), after petition by any interested person, or upon the department's own motion, the Department of Transportation may permit the establishment or modification of rates, classifications and practices to become temporarily effective without a hearing if the department finds that such action is in the public interest. The department shall hold the hearing required by ORS 825.202 (1) as soon thereafter as is practicable. Any such rates, classifications and practices determined after hearing

shall be effective as though originally determined pursuant to ORS 825.202. [Formerly 767.407]

825.222 Publication of notice of proposed rate establishment or modification. When directed by the Department of Transportation, any for-hire carrier of household goods, or agent on behalf of the carrier, that proposes the establishment or modification of a rate, classification or practice shall publish notice of the proposal in a newspaper of general circulation in the area in which the proposal shall be effective. Publication shall be within the time provided by the department. [Formerly 767.409; 2015 c.283 §21]

825.224 Rate regulation of carriers of household goods. (1) The rates, classifications, rules and practices used by for-hire carriers in the transportation of household goods shall be prescribed by the Department of Transportation and:

(a) Be plainly stated in tariffs available to the public at each carrier's office, and at the office of the department; and

(b) Be just, reasonable and fair and may not be unduly discriminatory, prejudicial or preferential.

(2) A for-hire carrier of household goods may not:

(a) Charge, collect or receive a different remuneration for the transportation of household goods, or for any related service, than the rates that have been legally prescribed and filed with the department.

(b) Refund or remit in any manner or by any device any portion of the rates required to be collected by its tariffs or written contracts on file with the department.

(3)(a) Any action against for-hire carriers of household goods for recovery of overcharges, or by the carriers for the collection of undercharges, shall be commenced within two years from the time the cause of action accrued.

(b) As used in this subsection:

(A) "Overcharges" means charges assessed for transportation service that are more than the rates applicable under the tariff lawfully in effect or in written contracts on file with the department.

(B) "Undercharges" means charges assessed for transportation service that are less than the rates applicable under the tariff lawfully in effect or in written contracts on file with the department.

(4) The department shall check the records of for-hire carriers of household goods for the purpose of discovering all discriminations and rebates. The department:

(a) Upon the department's own motion, may, and upon the complaint of any aggrieved person, shall, pursuant to written notice served upon any carrier subject to this subsection, investigate the carrier's service and the carrier's rates, classifications, rules and practices; and

(b) To the extent that the rates, classifications, rules or practices are found by the department to be unreasonable, unlawful, unfair or unduly discriminatory, preferential or prejudicial, shall, by orders based upon the evidence, require the carrier to comply with just, fair, lawful and reasonable rates, classifications, rules and practices established by the department. Such carrier shall immediately comply with such orders.

(5) The department may suspend a tariff of for-hire carriers of household goods that the department believes will impair the ability of the carriers to serve the public or that appears to be unjust, unfair, unreasonable, prejudicial, discriminatory or otherwise unlawful. [Formerly 767.410; 2015 c.27 §61; 2015 c.283 §11]

825.226 Rating bureaus; rules. (1) The Department of Transportation shall adopt rules providing for guidelines and requirements for the formation of bureaus that carriers regulated under this chapter may join to develop and maintain reasonable rates for transportation services. The rules shall include procedures to assure that rates established through the rate bureaus are without unjust discriminations, undue preferences or advantages or practices that are unfair or that the department determines will adversely affect competition.

(2) The department may establish any rule for the regulation of rate bureaus under this section that the department determines to be in the public interest.

(3) Carriers regulated under this chapter may become members of rate bureaus that meet the requirements established by the department under this section and may use the services of the rate bureaus in the development of rates and rating practices, classifications, divisions and rules that relate to rates in a manner allowed by the department. [Formerly 767.505]

(Classifications)

825.230 Carrier to operate only in class for which authority issued; effect of violation. (1) The Department of Transportation shall, in issuing certificates or permits, classify the applicants as to their proper class under the law and no carrier shall operate in a different class without certificate or permit from the department.

(2) An authorized for-hire carrier may act as a private carrier without separate or additional authority.

(3) If, after notice and hearing, the department finds that any carrier is operating in a class other than that for which the certificate or permit is issued, the department shall revoke or suspend the certificate or permit, or order the carrier to cease and desist the illegal or irregular practices found. [Formerly 767.180; 1997 c.249 §264; 2001 c.567 §4]

825.232 General authority to prescribe and enforce rules and classifications. (1) The Department of Transportation shall, by general order or otherwise, prescribe and enforce rules in conformity with this chapter to better accomplish the enforcement of its provisions, which shall cover and include for-hire carriers and private carriers and their operations.

(2) The department may make such subdivisions of the carriers, as classified in this chapter, as in the opinion of the department may work to the efficient administration of this chapter and shall do all things necessary to carry out and enforce its provisions.

(3) All rules made by the department pursuant to this chapter and filed in the office of the department have the force and effect of law.

(4) This section does not restrict the powers of the county courts or boards of county commissioners under existing laws and amendments thereof.

(5) Without restricting the general powers conferred upon the department to prescribe and enforce rules, the department is vested with special authority with respect to the matters listed in ORS 825.204, 825.210 and 825.212. [Formerly 767.445; 1997 c.249 §265]

825.234 Classes of carriers of household goods; filing of tariff. (1) For-hire carriers of household goods shall be classified, and the classification shall be shown on the carrier's certificate when issued or reissued by the Department of Transportation, as follows:

(a) Irregular route transportation of household goods.

(b) Local cartage of household goods.

(2) Irregular route carriers of household goods shall file tariffs and classifications governing rates.

(3) Cartage carriers of household goods shall file tariffs and classifications governing rates. The department shall, after hearing, determine what territorial limits will be included within the commercial area adjacent to the limits of any incorporated city. [Formerly 767.415; 2015 c.283 §12]

825.236 [Formerly 767.416; repealed by 1997 c.275 §44]

(Local Cartage of Household Goods)

825.240 Inapplicability of certain regulatory statutes to local cartage activities; application for authority; rules. (1) The provisions of ORS 825.202, 825.220, 825.224 and 825.234, except for ORS 825.202 (2), (3) and (4), do not apply to for-hire carriers of household goods who are engaged in local cartage of property within areas designated in rules adopted by the Department of Transportation. The department shall designate a local cartage area as exempt from economic regulation if the department finds from the record and evidence in a rulemaking proceeding that:

(a) The gross revenue derived from local cartage of household goods in the designated cartage area by carriers does not exceed $100,000 a year;

(b) The population of the affected city or cartage area is less than 10,000;

(c) The incorporated city or designated cartage area is not an essential part of a metropolitan, industrial or homogeneous economic area;

(d) The incorporated city or cartage area is not contiguous to another city or within the area encompassed by the commercial zone of another city;

(e) Service to the public would not be adversely affected;

(f) The carrier's ability to render service would not be adversely affected; and

(g) It is not otherwise adverse to the public interest to exclude such area from regulation.

(2) If the department finds in a future rulemaking proceeding that adequate service is not being provided or that the public interest demands that the exemption be removed, the department shall remove the exemption and require the affected cartage carriers to comply with the provisions of this chapter.

(3) Within 90 days after the effective date of the order removing the exemption, carriers who operated within the local cartage area for at least six consecutive months immediately preceding the effective date of the order may file with the department an application for operating authority. The application shall be accompanied by evidence of qualified operations in the local cartage area. If the department finds that the applicant has engaged in qualified operations in the area, the department shall issue an appropriate certificate authorizing the carrier to provide service within the area. Applicants may

continue to provide service pending the department's decision on the application. [Formerly 767.417]

825.245 [2003 c.754 §3; repealed by 2009 c.433 §15]

825.246 [2003 c.754 §4; repealed by 2009 c.433 §15]

(Intrastate Transportation of Household Goods)

825.247 Imposition of fee on certain household goods carriers; penalty for nonpayment; rules. (1) The Department of Transportation may impose an annual fee in an amount determined under subsection (2) of this section on each for-hire carrier of household goods to defray the costs to the department of regulating persons offering or providing intrastate transportation of household goods without a certificate. The department shall establish the due date of the fee by rule and shall give notice to each for-hire carrier of household goods at least 15 days prior to the due date.

(2) The fee imposed under this section on each carrier may not exceed 0.1 percent of the carrier's gross operating revenue derived from transportation of household goods within this state in the prior calendar year, except that the fee may not be less than $100. A for-hire carrier of household goods in its first year of operation shall pay a fee of $100.

(3) The fee imposed under this section is in addition to any other fee prescribed in this chapter for for-hire carriers of household goods.

(4) A for-hire carrier of household goods shall submit with the fee required by this section a statement verified by the carrier showing the gross operating revenues of the carrier derived from transportation of household goods within this state in the prior calendar year. The department shall prescribe the form for the statement and the information that must be included and may audit the forms at any time. The department may refund any overpayment of the fee in the same manner as the department refunds other moneys collected from motor carriers.

(5) A for-hire carrier of household goods that fails to pay the fee required by this section by the due date shall be subject to suspension under ORS 825.139. [2003 c.754 §5; 2009 c.433 §11]

(Safety Regulation)

825.248 Annual commercial motor vehicle safety plan. (1) The Department of Transportation shall develop an annual commercial motor vehicle safety plan. The goal of the plan is to reduce accidents involving commercial motor vehicles and to reduce injuries and fatalities resulting from accidents involving commercial motor vehicles. The priority for each year's plan shall be determined on the basis of accurate and timely data. The department shall use performance measures to determine the success of an annual plan and to develop the subsequent plan.

(2) In conducting inspections described in ORS 810.560, a person who is trained and certified as a commercial vehicle inspector under ORS 810.560 shall adhere to the provisions of the commercial motor vehicle safety plan developed under subsection (1) of this section. [2003 c.589 §4a]

825.250 Stop for inspection. (1) An authorized representative of the Department of Transportation may require a person driving a vehicle or combination of vehicles subject to regulation by the department on a street or highway to stop and submit to an inspection of the driver, the cargo or the vehicle or combination of vehicles at any location where representatives of the department are conducting tests and inspections when signs are displayed requiring such stop.

(2) As used in this section, "authorized representative" means a city, county or state employee who has been trained and certified by the department as a commercial vehicle inspector and who is employed either by the department or by an agency that has an agreement with the department to provide inspections of commercial vehicles, drivers, general cargo or hazardous materials. [Formerly 767.452]

825.252 Safety regulations relating to drivers or operators; uniformity with federal regulations; rules. (1) The Department of Transportation shall, after public notice and hearing, adopt rules that require for-hire and private carriers to:

(a) Protect and safeguard the health and safety of all employees, passengers and the public by prescribing the limit of hours that drivers or operators of motor vehicles may remain on duty at any time and the required number of hours released from duty.

(b) Establish minimum qualifications for persons who drive motor vehicles, as, for, or on behalf of the carrier.

(c) Meet and maintain minimum requirements established by the department for safety of operations and equipment of motor vehicles subject to their operations and control.

(2) Venue for prosecution for the violation of rules adopted under this section lies:

(a) In the county in which the defendant resides if the defendant is a resident of this state.

(b) In the county where the violation was committed if the defendant is not a resident of this state.

(3) The department may revoke the certificate or permit of any person for repeated violation of the laws or rules governing hours of service.

(4) The rules promulgated under subsection (1) of this section should provide for uniformity between state and federal motor carrier safety and hours of service rules insofar as practicable. [Formerly 767.455]

825.254 Limitation on movement of vehicles to particular days of week; rules. Except as provided in this section, the Department of Transportation shall not adopt rules limiting the movement of vehicles that are subject to regulation under this chapter to any particular days of the week. The department may adopt rules described under this section if:

(1) The rules are recommended by the Superintendent of State Police; and

(2) The department determines that the rules are required to protect the interest and safety of the general public. [Formerly 767.456]

825.256 Rules for transportation of infectious waste. The Department of Transportation may establish rules governing the conditions for transportation of infectious waste that is not an incidental part of other solid waste. The rules may require persons transporting infectious waste for consideration to register separately with the Department of Transportation as an infectious waste transporter and may specify the terms of that registration, including a fee for such registration. The Department of Transportation may require that persons transporting infectious waste for consideration document the county and state of origin of the waste. As used in this section, "infectious waste" has the meaning given in ORS 459.386. [Formerly 767.034]

825.258 Rules for transportation of hazardous waste, hazardous material and PCB; civil penalty. (1) The Department of Transportation shall adopt rules that conform to any applicable federal rules setting standards for the safe transportation of hazardous waste, hazardous material and PCB. The rules shall be applicable to any person who transports, or causes to be transported, any hazardous material.

(2) The authority granted under this section:

(a) Is in addition to any other authority granted the department.

(b) Does not supersede the authority of the Energy Facility Siting Council to regulate the transportation of radioactive materials under ORS 469.550, 469.563, 469.603 to 469.619 and 469.992.

(3) In addition to any other penalty for violation of a rule adopted under this section, the department, after hearing, may impose a civil penalty of not more than $10,000 for violation of a rule adopted under this section. Each day of noncompliance with a rule is a separate violation. [Formerly 767.457]

825.260 Impoundment of vehicles unlawfully transporting hazardous wastes or substances. (1) In addition to any other enforcement measure allowed, if a person violates the provisions of ORS 466.080 or 825.258 or rules adopted by the Department of Transportation under ORS 466.080 or 825.258, the department may impound the person's vehicle transporting, about to transport or that has transported hazardous waste, PCB or hazardous substance within the state. The department may charge a reasonable fee for the costs of impoundment and storage, if any, before releasing any vehicle to its owner.

(2) As used in this section and ORS 825.258:

(a) "Hazardous substance" includes any substance defined by the department as hazardous.

(b) "Hazardous waste" has the meaning given that term in ORS 466.005.

(c) "PCB" has the meaning given that term in ORS 466.505 when the PCB is a waste product of an industrial, commercial or other activity. [Formerly 767.458]

(Enforcement)

825.300 Utilization of state police in enforcing chapter. The Department of Transportation shall call upon the state police for all police service or police assistance necessary for the proper and efficient policing of carriers operating under this chapter. The department and the state police shall cooperate in the enforcement of this chapter to the end that there may be no duplication of service or expense. [Formerly 767.475]

825.302 Service of process on nonresident carrier by serving the department. (1) The Department of Transportation is the true and lawful attorney upon whom all process, summons or notices in any action, suit or proceeding against each motor carrier residing or having its principal place of business outside this state may be served, when such action, suit or proceeding is caused by or relates to the operation of motor vehicles of or by such carrier within the state.

(2) The service of process, summons or notice upon such carrier may be made by

leaving a copy thereof, together with a copy of the complaint or order, in the office of the department. The department shall forthwith notify such carrier of such service by letter directed to it at its residence or place of business as shown by the records of the department. [Formerly 767.495]

825.304 Vehicle owner to be made party to certificate or permit enforcement proceedings; dismissal of charges against driver. (1) In any prosecution for any violation of ORS 825.100 or 825.104 of any driver who is employed by the owner or lessee of the vehicle involved in the violation to operate the vehicle, the court shall make the owner or lessee of the vehicle a codefendant if appearance has not been made by the driver within 15 days of the date the driver was cited to appear in court.

(2) If it is found that the owner or lessee caused or permitted the driver to operate the vehicle in violation of ORS 825.100 or 825.104, and if the owner or lessee is found guilty of violating any of those provisions, the court may dismiss the charges against the driver. [Formerly 767.500]

(Reports, Records and Funds)

825.320 Carrier's annual report to department. On or before April 1 of each year, unless additional time is granted, every certificated motor carrier shall file with the Department of Transportation a report, verified under oath by its chief officer, agent or owner, in such form and containing such information as the department shall prescribe, covering the year ending December 31 next preceding. [Formerly 767.605]

825.322 Disclosure of hazardous waste transportation reports and information to Environmental Protection Agency. Records, reports and information obtained or used by the Department of Transportation in administering the hazardous waste program under ORS 825.258 shall be available to the United States Environmental Protection Agency upon request. If the records, reports or information has been submitted to the department under a claim of confidentiality, the state shall make that claim of confidentiality to the Environmental Protection Agency for the requested records, reports or information. The federal agency shall treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law. [Formerly 767.644]

825.324 [Formerly 767.625; repealed by 1997 c.275 §44]

825.325 Intrastate for-hire carrier of household goods required to obtain and retain criminal background check; rules. An authorized intrastate for-hire carrier of household goods shall obtain and retain for a period of at least three years a criminal background check of each employee whose duties may require contact with the public or entry into a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods. The department shall adopt rules for conducting the criminal background check required and may prohibit an employee's activities based on the result of the criminal background check. [2009 c.433 §5]

825.326 Motor Carrier Account; Consumer Protection Household Moves Account. (1) Except as provided in subsection (2) of this section, all fees, taxes, charges and other sums collected by the Department of Transportation under this chapter shall be paid into the State Treasury and shall be placed to the credit of an account, separate and distinct from the General Fund, to be known as the Motor Carrier Account. Interest earned by the account shall be credited to the account.

(2) Notwithstanding ORS 823.991, all fees collected under ORS 825.247 and all penalties collected under ORS 825.950 for offering to transport or transporting household goods without a certificate shall be paid into the State Treasury and shall be placed to the credit of an account, separate and distinct from the General Fund, to be known as the Consumer Protection Household Moves Account. Interest earned by the account shall be credited to the account. Moneys in the account are continuously appropriated to the department for purposes specified in subsection (5) of this section.

(3) The department may purchase the necessary supplies and equipment and provide for all necessary and incidental expenses incurred by the department in administering and enforcing this chapter.

(4) All claims, duly approved by the department, that have been incurred in pursuance of law, shall be paid by warrants drawn in the manner provided by law, payable out of the Motor Carrier Account or the Consumer Protection Household Moves Account.

(5) Moneys in the Consumer Protection Household Moves Account shall be used by the department exclusively for administration and enforcement of provisions of this chapter relating to persons that offer to provide or provide transportation of household goods without a certificate. [Formerly 767.630; 2003 c.754 §8; 2009 c.433 §12]

825.328 Monthly transfer of Motor Carrier Account surplus to State Highway Fund. On the last day of each month the Department of Transportation shall identify the balance of all money in excess of sufficient working capital to accommodate the department's operating needs remaining in the Motor Carrier Account as of the close of business on the 25th day of such month, after deducting sums disbursed by warrants drawn on the Motor Carrier Account under ORS 825.326. The department shall thereupon transfer the balance to the State Highway Fund. [Formerly 767.635; 2003 c.754 §9]

825.330 Restrictions on use of funds. No part of the funds produced by this chapter shall be used by the Department of Transportation directly or indirectly:

(1) For the purpose of investigating the rules, charges, practice or service of any carrier by rail.

(2) In the administration or enforcement of any law or authority over any carrier by rail.

(3) To investigate motor carriers beyond the appropriation made in this chapter. [Formerly 767.640; 1997 c.249 §266]

(Miscellaneous)

825.350 Voluntary commuter ridesharing arrangement not to be taxed or licensed by local government. (1) A county, city or other municipal corporation may not impose a tax on, or require a license for, a voluntary commuter ridesharing arrangement using a motor vehicle with a seating capacity for not more than 15 persons.

(2) For the purposes of this section, "voluntary commuter ridesharing arrangement" has the meaning given that term in ORS 656.025. [Formerly 767.660; 2015 c.27 §62]

825.352 Advertising requirements for carriers of household goods. A carrier that transports household goods shall include the carrier's certificate number in all newsprint classified advertising, newsprint display advertising, Internet advertising and telephone directory advertising prepared by or at the direction or request of the carrier. [Formerly 767.665; 2009 c.433 §13]

825.354 Appointment of agents to issue passes, collect fees and taxes. The Department of Transportation may appoint agents to issue temporary passes provided in ORS 825.470 and to collect any fees and taxes required by this chapter. The department shall prescribe the duties and compensation of such agents and may require them to give bonds or irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008, in such amount as the department determines appropriate, conditioned upon the faithful performance of their duties. [Formerly 767.062; 1997 c.631 §560; 2001 c.567 §5]

825.356 Courts to forward copies of record on conviction for violation of chapter. The courts having jurisdiction of this chapter shall, upon a conviction of anyone for violation of this chapter, immediately forward a copy of the record of such conviction to the office of the Department of Transportation. [Formerly 767.065]

MOTOR CARRIER EDUCATION PROGRAM

825.400 Rules for establishment of motor carrier education program; contents of program. The Department of Transportation shall adopt rules to establish a program for the education of motor carriers that covers, at a minimum, safety, weight mile tax and insurance and size and weight regulations administered by the department. [Formerly 767.751; 1997 c.249 §267]

825.402 Participation in program. (1) Except as provided in subsection (4) of this section, all motor carriers that are domiciled in Oregon and that receive a certificate or permit from the Department of Transportation for the first time on or after July 1, 1990, shall participate in the program established under ORS 825.400.

(2) A motor carrier required by subsection (1) of this section to participate in the program must do so within 90 days of the date on which it receives a certificate or permit from the department.

(3) In addition to motor carriers required to participate in the program established under ORS 825.400, the department may require participation by any motor carrier that:

(a) Has underpaid its tax obligation for the use of the highways by 15 percent or more;

(b) Exceeds by more than 15 percent, in a one-year period, the industry average for out-of-service violations for vehicle inspection or for accidents per mile; or

(c) Receives, in a one-year period, two or more citations for being 10,000 pounds or more overweight.

(4) Subsection (1) of this section does not apply to a carrier receiving a certificate or permit for the first time on or after July 1, 1990, if the carrier is a successor in interest to a carrier that held a certificate or permit prior to that date.

(5) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to have at least one person having a substantial interest or control, directly or indirectly, in or

over the operations conducted or to be conducted under the certificate or permit issued to the motor carrier participate in the program. No rule shall require the participation of a motor carrier more than one time except for motor carriers required to participate under subsection (3) of this section. [Formerly 767.752; 2001 c.567 §10]

825.404 Fee for program. The Department of Transportation shall assess a fee to defray the cost of the program, but the fee shall not exceed $60. [Formerly 767.753]

DRUG AND ALCOHOL TESTING PROGRAM

825.410 Drug and alcohol testing program; report of positive test. (1) Every motor carrier must:

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

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

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

(3) When a medical review officer of a motor carrier's testing program or of the consortium the carrier belongs to determines that a positive test result is valid, the officer must report the finding to the department. [1999 c.1099 §2]

825.412 Hearing regarding test results; rules; entry on employment driving record. (1) When the Department of Transportation receives a report under ORS 825.410, the department shall notify the person who is the subject of the report that the person has a right to a hearing to determine whether the test results reported under ORS 825.410 will be placed on the person's employment driving record.

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

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

(a) Whether the person named in the report is the person who took the test.

(b) Whether the motor carrier or consortium has a program that meets the requirements of ORS 825.410.

(c) Whether the medical review officer making the report correctly followed the procedures for testing established by the motor carrier or consortium.

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

(5) The department shall adopt rules specifying requirements for requesting a hearing under this section.

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

(7) The department may not be held civilly liable for any damage resulting from placing information about a drug test result on the employment driving record as required by this section or for any damage resulting from release of the information by the department that occurs in the normal course of business. [1999 c.1099 §7; 2003 c.75 §111]

Note: 825.412 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to or made a part of ORS chapter 825 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

825.415 Drug and alcohol testing; school transportation provider. (1) As used in this section and ORS 825.418, "school transportation provider" means a school district or a school district contractor that uses school buses or school activity vehicles for:

(a) The transportation of students or school personnel to or from school or school-related activities; or

(b) Public transportation purposes as provided in ORS 332.427.

(2) Every school transportation provider shall:

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

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

(3) Each calendar year, a school transportation provider shall certify to the Department of Education that the provider is in compliance with subsection (2) of this section

and, if the provider belongs to a consortium, shall provide the department with the names of persons who operate the consortium.

(4) When a medical review officer of a school transportation provider's testing program or of the consortium the provider belongs to determines that a positive test result is valid, the officer shall report the finding to the Department of Transportation and to the Department of Education. [2013 c.163 §2]

Note: 825.415 and 825.418 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 825 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

825.418 Hearing regarding test results under ORS 825.415; rules. (1) When the Department of Transportation receives a report under ORS 825.415, the department shall notify the person who is the subject of the report that the person has a right to a hearing to determine whether the test results reported under ORS 825.415 will be placed on the person's employment driving record.

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

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

(a) Whether the person named in the report is the person who took the test.

(b) Whether the school transportation provider or consortium has a program that meets the requirements of ORS 825.415.

(c) Whether the medical review officer making the report correctly followed the procedures for testing established by the school transportation provider or consortium.

(4) If the administrative law judge determines that the person is the person named in the report, that the school transportation provider or consortium has a program meeting the requirements of ORS 825.415 and that the medical review officer followed established procedures, the administrative law judge shall order the positive test result to be entered into the employment driving record of the person.

(5) The department shall adopt rules specifying requirements for requesting a hearing under this section.

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

(7) The department may not be held civilly liable for any damage resulting from placing information about a drug test result on the employment driving record as required by this section or for any damage resulting from release of the information by the department that occurs in the normal course of business. [2013 c.163 §3]

Note: See note under 825.415.

WEIGHT-MILE TAX
(Identification Devices)

825.450 Weight identifier; period of validity; rules. (1) Upon application by a carrier, the Department of Transportation may issue a weight identifier for each vehicle the carrier enrolls with the department, which must state the combined weight of the vehicle or combination of vehicles. The department shall record each weight identifier electronically. This subsection does not apply to vehicles issued a temporary pass under ORS 825.470.

(2) A person may not load any motor vehicle in excess of the combined weight stated on the weight identifier issued for that motor vehicle under subsection (1) of this section.

(3) Weight identifiers issued under this section are valid from the first day of any calendar quarter to the last day of the fourth consecutive calendar quarter. Each carrier may select the calendar quarter in which the period will begin except that, if necessary for administrative convenience, the department may require a carrier to adopt a starting date chosen by the department.

(4) All vehicles operating under the carrier's authority shall have the same four-quarter period of weight identifier validity. The department may allow a carrier to operate with expired weight identifiers for up to one extra quarter if the renewal application has been submitted. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.

(5) The department may adopt rules necessary to administer the provisions of this section. [Formerly 767.775; 2001 c.567 §1; 2003 c.618 §50; 2007 c.465 §1; 2017 c.750 §§57,58; 2018 c.93 §28a; 2019 c.491 §38]

825.452 Initial registration period. In order to facilitate the registration issuance and registration renewal processes, when a carrier initially registers under ORS 826.009 or 826.037, the Department of Transportation may assign a registration period ranging from three to 12 months. [1995 c.39 §6; 2001 c.567 §6; 2019 c.491 §41]

825.454 Identification devices; applications. (1) The Department of Transportation, in the discretion of the department, may require the use of identification devices, such as cab cards, stamps or carrier identification

numbers, to identify and be carried with or placed upon each motor vehicle authorized to be operated in Oregon subject to the provisions of this chapter. The form of any identification device and the method for its use shall be determined by the department.

(2) Notwithstanding any other provision in this chapter, the department may require applications for identification devices to be made annually. [Formerly 767.780; 2001 c.567 §7; 2003 c.753 §1; 2019 c.491 §42]

(Taxes and Fees)

825.470 Temporary pass; fees; rules. (1) For single trip or short-time operation not exceeding 10 days of a vehicle subject to the provisions of this chapter, the Department of Transportation may issue a temporary pass identifying the motor vehicle. For this pass a fee of $9 for each motor vehicle shall be paid.

(2) The department may adopt rules necessary to administer the provisions of this section. [Formerly 767.805; 2001 c.567 §8; 2007 c.465 §2]

825.472 Determination of filing of reports or payments. (1) Any report or payment transmitted through the United States mail that is required to be filed with the Department of Transportation by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 shall be considered filed:

(a) On the date shown by the post-office cancellation mark on the envelope or wrapper containing such report or payment.

(b) On the date such report or payment was mailed if the post-office cancellation mark on the envelope or wrapper containing the report or payment is omitted or is not legible or if the report or payment is not received by the department and if the sender establishes to the satisfaction of the department that the report or payment was deposited in the United States mail on or before the date due for filing.

(2) If the date for filing any report or payment required to be filed with the department by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 falls on a Saturday, Sunday or legal holiday, a filing shall be considered timely if made on the next business day.

(3) Notwithstanding the provisions of subsection (1)(a) of this section, a report or payment that is required to be filed with the department by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 and that is filed by a person whose certificate or permit is suspended under ORS 825.139 (1)(a) for delinquent reporting or paying shall be considered filed on the date it is received by the department. [Formerly 767.810; 1997 c.275 §41]

825.474 Motor carrier tax for use of highways. (1) In addition to other fees and taxes imposed by law upon carriers, there shall be assessed against and collected from every carrier a tax for the use of the highways, to apply to the cost of administration of this chapter and for the maintenance, operation, construction and reconstruction of public highways.

(2) The tax rate which shall apply to each motor vehicle shall be based upon the declared combined weight of the motor vehicle and in accordance with the weight group tax rates as shown in the tables set forth in ORS 825.476.

(3) For the purpose of computing the tax due:

(a) Table "A" applies to motor vehicles subject to the tax imposed by this section that are not issued an annual variance permit under ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000 pounds.

(b) Table "B" applies to motor vehicles subject to the tax imposed by this section that are issued or required to obtain an annual variance permit under ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000 pounds.

(c) The declared combined weight shall be the combined weight, as defined in ORS 825.005, declared in the application for authority under ORS 825.100, subject to audit and approval by the Department of Transportation.

(d) In addition to any tax due under this chapter, motor vehicles that exceed the maximum vehicle weight limits for annual variance permits under ORS 818.200 (1)(a) to (c) are subject to the road use assessment fee imposed under ORS 818.225 for the entire motor vehicle weight, minus the road use assessment fee for the maximum vehicle weight allowed under the annual variance permit.

(4) The tax for each motor vehicle when table "A" or "B" is used shall be computed by multiplying the extreme mileage of travel in Oregon by the appropriate weight group tax rate as it appears in the table. [Formerly 767.815]

825.475 Exemption from motor carrier tax and fuel tax. Notwithstanding ORS 319.020, 319.530 and 825.474, a person operating a motor vehicle with a combined weight of 26,000 pounds or more is not required to pay the weight-mile tax imposed under ORS 825.474 or fuel taxes imposed under ORS 319.020 and 319.530, if:

(1) The person is not operating as a for-hire carrier; and

(2) The person is operating the motor vehicle for the purpose of emissions research and development and the United States Environmental Protection Agency has provided a testing exemption from complying with federal emission requirements. [2015 c.716 §15]

Note: 825.475 is repealed January 1, 2026. See sections 40 and 41, chapter 579, Oregon Laws 2019.

825.476 Carrier tax tables. (1) For the period beginning on January 1, 2018, and ending on December 31, 2019:

MILEAGE TAX RATE TABLE "A"

Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)
26,001 to 28,000	62.3
28,001 to 30,000	66.0
30,001 to 32,000	68.9
32,001 to 34,000	72.1
34,001 to 36,000	74.9
36,001 to 38,000	78.7
38,001 to 40,000	81.7
40,001 to 42,000	84.7
42,001 to 44,000	87.8
44,001 to 46,000	90.7
46,001 to 48,000	93.7
48,001 to 50,000	96.8
50,001 to 52,000	100.4
52,001 to 54,000	104.1
54,001 to 56,000	108.0
56,001 to 58,000	112.5
58,001 to 60,000	117.7
60,001 to 62,000	123.7
62,001 to 64,000	130.6
64,001 to 66,000	138.0
66,001 to 68,000	147.8
68,001 to 70,000	158.3
70,001 to 72,000	168.7
72,001 to 74,000	178.3
74,001 to 76,000	187.5
76,001 to 78,000	196.6
78,001 to 80,000	204.8

AXLE-WEIGHT MILEAGE TAX RATE TABLE "B"

Declared Combined Weight Groups (Pounds)	Number of Axles 5	6	7	8	9 or more
	(Mills)				
80,001 to 82,000	211.5	193.4	180.8	171.8	162.0
82,001 to 84,000	218.3	196.6	183.8	174.0	164.2
84,001 to 86,000	224.9	201.1	186.8	176.2	166.5
86,001 to 88,000	232.5	205.4	189.7	179.3	168.7
88,001 to 90,000	241.5	210.7	192.8	182.2	171.8
90,001 to 92,000	252.0	216.8	195.6	185.2	174.8
92,001 to 94,000	263.3	222.7	198.7	188.2	177.1
94,001 to 96,000	275.3	229.5	202.5	191.3	179.9
96,001 to 98,000	288.1	237.8	207.0	194.4	183.0
98,001 to 100,000		246.7	211.5	198.0	186.0
100,001 to 102,000			216.0	202.5	189.1
102,001 to 104,000			220.5	207.0	192.8
104,001 to 105,500			226.4	211.5	196.6

(2) For the period beginning on January 1, 2020, and ending on December 31, 2021:

MILEAGE TAX RATE TABLE "A"

Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)
26,001 to 28,000	65.4
28,001 to 30,000	69.3
30,001 to 32,000	72.4
32,001 to 34,000	75.7
34,001 to 36,000	78.6
36,001 to 38,000	82.7
38,001 to 40,000	85.8
40,001 to 42,000	88.9
42,001 to 44,000	92.2
44,001 to 46,000	95.3
46,001 to 48,000	98.4
48,001 to 50,000	101.6
50,001 to 52,000	105.4
52,001 to 54,000	109.3
54,001 to 56,000	113.4
56,001 to 58,000	118.1
58,001 to 60,000	123.5
60,001 to 62,000	129.9
62,001 to 64,000	137.1
64,001 to 66,000	144.9
66,001 to 68,000	155.2
68,001 to 70,000	166.2
70,001 to 72,000	177.1
72,001 to 74,000	187.3
74,001 to 76,000	196.9
76,001 to 78,000	206.4
78,001 to 80,000	215.0

AXLE-WEIGHT MILEAGE TAX RATE TABLE "B"

Declared Combined Weight Groups (Pounds)	Number of Axles 5	6	7	8	9 or more
	(Mills)				
80,001 to 82,000	222.1	203.1	189.9	180.4	170.1
82,001 to 84,000	229.3	206.4	193.0	182.7	172.4
84,001 to 86,000	236.1	211.1	196.1	185.0	174.8
86,001 to 88,000	244.1	215.7	199.2	188.2	177.1
88,001 to 90,000	253.6	221.3	202.5	191.3	180.4
90,001 to 92,000	264.6	227.6	205.4	194.5	183.5
92,001 to 94,000	276.5	233.8	208.7	197.6	186.0
94,001 to 96,000	289.1	241.0	212.6	200.8	188.9
96,001 to 98,000	302.5	249.7	217.3	204.1	192.2
98,001 to 100,000		259.0	222.1	207.9	195.3
100,001 to 102,000			226.8	212.6	198.5
102,001 to 104,000			231.5	217.3	202.5
104,001 to 105,500			237.8	222.1	206.4

(3) For the period beginning on January 1, 2022, and ending on December 31, 2023:

MILEAGE TAX RATE TABLE "A"

Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)
26,001 to 28,000	72.0
28,001 to 30,000	76.4
30,001 to 32,000	79.8
32,001 to 34,000	83.4
34,001 to 36,000	86.6
36,001 to 38,000	91.1
38,001 to 40,000	94.5
40,001 to 42,000	98.0
42,001 to 44,000	101.6
44,001 to 46,000	105.0
46,001 to 48,000	108.4
48,001 to 50,000	112.0
50,001 to 52,000	116.1
52,001 to 54,000	120.5
54,001 to 56,000	125.0
56,001 to 58,000	130.2
58,001 to 60,000	136.1
60,001 to 62,000	143.2
62,001 to 64,000	151.1
64,001 to 66,000	159.7
66,001 to 68,000	171.1
68,001 to 70,000	183.1
70,001 to 72,000	195.2
72,001 to 74,000	206.4
74,001 to 76,000	217.0
76,001 to 78,000	227.4
78,001 to 80,000	237.0

AXLE-WEIGHT MILEAGE TAX RATE TABLE "B"

Declared Combined Weight Groups (Pounds)	Number of Axles 5	6	7 (Mills)	8	9 or more
80,001 to 82,000	244.7	223.8	209.2	198.8	187.5
82,001 to 84,000	252.6	227.4	212.7	201.3	190.0
84,001 to 86,000	260.2	232.7	216.1	203.8	192.7
86,001 to 88,000	269.0	237.7	219.5	207.4	195.2
88,001 to 90,000	279.5	243.8	223.1	210.9	198.8
90,001 to 92,000	291.5	250.8	226.4	214.3	202.2
92,001 to 94,000	304.7	257.7	230.0	217.7	204.9
94,001 to 96,000	318.6	265.6	234.3	221.3	208.2
96,001 to 98,000	333.3	275.2	239.5	224.9	211.8
98,001 to 100,000		285.4	244.7	229.1	215.2
100,001 to 102,000			249.9	234.3	218.8
102,001 to 104,000			255.2	239.5	223.1
104,001 to 105,500			262.0	244.7	227.4

[Formerly 767.820; 1999 c.1075 §36; 2003 c.618 §4; 2009 c.865 §52; 2017 c.750 §63]

Note: The amendments to 825.476 by section 64, chapter 750, Oregon Laws 2017, become operative January 1, 2024, and apply to taxes imposed on or after January 1, 2024. See section 65, chapter 750, Oregon Laws 2017, and section 139, chapter 750, Oregon Laws 2017, as amended by section 31, chapter 93, Oregon Laws 2018. The text that is operative on and after January 1, 2024, is set forth for the user's convenience.

825.476.

MILEAGE TAX RATE TABLE "A"

Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)
26,001 to 28,000	76.4
28,001 to 30,000	80.9
30,001 to 32,000	84.6
32,001 to 34,000	88.4
34,001 to 36,000	91.8
36,001 to 38,000	96.6
38,001 to 40,000	100.2
40,001 to 42,000	103.8
42,001 to 44,000	107.7
44,001 to 46,000	111.3
46,001 to 48,000	114.9
48,001 to 50,000	118.7
50,001 to 52,000	123.1
52,001 to 54,000	127.7
54,001 to 56,000	132.5
56,001 to 58,000	138.0
58,001 to 60,000	144.3
60,001 to 62,000	151.7
62,001 to 64,000	160.1
64,001 to 66,000	169.3
66,001 to 68,000	181.3
68,001 to 70,000	194.1
70,001 to 72,000	206.9
72,001 to 74,000	218.7
74,001 to 76,000	230.0
76,001 to 78,000	241.1
78,001 to 80,000	251.2

AXLE-WEIGHT MILEAGE TAX RATE TABLE "B"

Declared Combined Weight Groups (Pounds)	Number of Axles 5	6	7 (Mills)	8	9 or more
80,001 to 82,000	259.4	237.3	221.8	210.7	198.7
82,001 to 84,000	267.8	241.1	225.4	213.4	201.4
84,001 to 86,000	275.8	246.6	229.1	216.1	204.2
86,001 to 88,000	285.2	252.0	232.7	219.9	206.9
88,001 to 90,000	296.2	258.4	236.5	223.5	210.7
90,001 to 92,000	309.0	265.9	239.9	227.1	214.4
92,001 to 94,000	323.0	273.1	243.8	230.8	217.2
94,001 to 96,000	337.7	281.5	248.3	234.6	220.7
96,001 to 98,000	353.3	291.7	253.9	238.4	224.5
98,001 to 100,000		302.5	259.4	242.8	228.1
100,001 to 102,000			264.9	248.3	231.9
102,001 to 104,000			270.5	253.9	236.5
104,001 to 105,500			277.7	259.4	241.1

825.480 Substitute taxes for certain vehicles. (1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operat-

ing motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the following rate for each 100 pounds of declared combined weight:

(A) For the period beginning on January 1, 2018, and ending on December 31, 2019, $9.10.

(B) For the period beginning on January 1, 2020, and ending on December 31, 2021, $10.

(C) For the period beginning on January 1, 2022, and ending on December 31, 2023, $11.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(2) The annual fees provided in subsections (1), (4) and (5) of this section may be paid on a monthly basis. Any carrier electing to pay fees under this method may not change an election during the same calendar year in which the election is made, but may be relieved from the payment due for any month during which a motor vehicle is not operated. A carrier electing to pay fees under this method shall report and pay these fees on or before the 10th of each month for the preceding month's operations. A monthly report shall be made on all vehicles on the annual fee basis including any vehicle not operated for the month.

(3)(a) In lieu of the fees provided in ORS 825.470 to 825.474, motor vehicles described in ORS 825.024 with a combined weight of less than 46,000 pounds that are being operated under a permit issued under ORS 825.102 may pay annual fees for such operation computed at the following rate for each 100 pounds of declared combined weight:

(A) For the period beginning on January 1, 2018, and ending on December 31, 2019, $7.50.

(B) For the period beginning on January 1, 2020, and ending on December 31, 2021, $8.20.

(C) For the period beginning on January 1, 2022, and ending on December 31, 2023, $9.

(b) The annual fees provided in this subsection shall be paid in advance but may be paid on a monthly basis on or before the first day of the month. A carrier may be relieved from the fees due for any month during which the motor vehicle is not operated for hire if a statement to that effect is filed with the Department of Transportation on or before the fifth day of the first month for which relief is sought.

(4)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in the operation of motor vehicles equipped with dump bodies and used in the transportation of sand, gravel, rock, dirt, debris, cinders, asphaltic concrete mix, metallic ores and concentrates or raw nonmetallic products, whether crushed or otherwise, moving from mines, pits or quarries may pay annual fees for such operation computed at the following rate for each 100 pounds of declared combined weight:

(A) For the period beginning on January 1, 2018, and ending on December 31, 2019, $9.10.

(B) For the period beginning on January 1, 2020, and ending on December 31, 2021, $9.90.

(C) For the period beginning on January 1, 2022, and ending on December 31, 2023, $10.90.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt for taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(5)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of wood chips, sawdust, barkdust, hog fuel or shavings may pay annual fees for such operation computed at the following rate for each 100 pounds of declared combined weight:

(A) For the period beginning on January 1, 2018, and ending on December 31, 2019, $36.80.

(B) For the period beginning on January 1, 2020, and ending on December 31, 2021, $40.20.

(C) For the period beginning on January 1, 2022, and ending on December 31, 2023, $44.30.

(b) Any carrier electing to pay under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movement of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, service or moving from one exempt highway operation to another. [Formerly 767.825; 2003 c.618 §5; 2009 c.865 §53; 2017 c.750 §66; 2018 c.93 §29]

Note: The amendments to 825.480 by section 67, chapter 750, Oregon Laws 2017, become operative January 1, 2024, and apply to fees imposed on or after January 1, 2024. See section 68, chapter 750, Oregon Laws 2017, and section 139, chapter 750, Oregon Laws 2017,

as amended by section 31, chapter 93, Oregon Laws 2018. The text that is operative on and after January 1, 2024, including amendments by section 29a, chapter 93, Oregon Laws 2018, is set forth for the user's convenience.

825.480. (1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the rate of $11.60 for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(2) The annual fees provided in subsections (1), (4) and (5) of this section may be paid on a monthly basis. Any carrier electing to pay fees under this method may not change an election during the same calendar year in which the election is made, but may be relieved from the payment due for any month during which a motor vehicle is not operated. A carrier electing to pay fees under this method shall report and pay these fees on or before the 10th of each month for the preceding month's operations. A monthly report shall be made on all vehicles on the annual fee basis including any vehicle not operated for the month.

(3)(a) In lieu of the fees provided in ORS 825.470 to 825.474, motor vehicles described in ORS 825.024 with a combined weight of less than 46,000 pounds that are being operated under a permit issued under ORS 825.102 may pay annual fees for such operation computed at the rate of $9.60 for each 100 pounds of declared combined weight.

(b) The annual fees provided in this subsection shall be paid in advance but may be paid on a monthly basis on or before the first day of the month. A carrier may be relieved from the fees due for any month during which the motor vehicle is not operated for hire if a statement to that effect is filed with the Department of Transportation on or before the fifth day of the first month for which relief is sought.

(4)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in the operation of motor vehicles equipped with dump bodies and used in the transportation of sand, gravel, rock, dirt, debris, cinders, asphaltic concrete mix, metallic ores and concentrates or raw nonmetallic products, whether crushed or otherwise, moving from mines, pits or quarries may pay annual fees for such operation computed at the rate of $11.50 for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt for taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(5)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of wood chips, sawdust, barkdust, hog fuel or shavings may pay annual fees for such operation computed at the rate of $47 for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movement of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, service or moving from one exempt highway operation to another.

825.482 Review of flat fee rates. The Department of Transportation and the Oregon Transportation Commission shall review flat fee rates established under ORS 825.480 in each even-numbered year and shall recommend to the next following odd-numbered year regular session of the Legislative Assembly any adjustments to the flat fee rates that the department and the commission deem appropriate. [1989 c.992 §28; 2011 c.545 §67]

Note: 825.482 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 825 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

825.484 Effect of carrier tax law on other taxes; offset of fees or taxes erroneously paid. (1) The fees or taxes listed in ORS 825.474, 825.476 and 825.480 shall be in addition to, and not in lieu of, other fees and taxes of the state, county or municipality which may be imposed, levied, assessed or collected against the business or property of such carrier. This section does not authorize the imposition of license fees by municipalities upon intercity carriers, or deprive any city within which a passenger motor vehicle, having a seating capacity of not more than seven passengers, is principally operated for hire, from imposing and collecting license fees upon and from such motor vehicle, or the owner or operator thereof, as to such portion of its operations as are wholly within the corporate limits of such city.

(2) ORS 319.510 to 319.880 do not apply to vehicles or fuels used therein when the vehicles are subject to, and report and pay:

(a) The tax for the use of Oregon highways based upon the combined weight of the vehicle and in accordance with the weight group rates prescribed in ORS 825.474, 825.476 and 825.480; or

(b) The road use assessment fee required under ORS 818.225.

(3) When an audit of the operations of a carrier shows that the use fuel taxes reported and paid under ORS chapter 319 should have been reported and paid under this chapter, or that fees or taxes reported and paid under this chapter should have been reported and paid under ORS chapter 319, the fees or taxes erroneously reported and paid under one chapter need not be refunded but may be considered an offset of fees or taxes due under the other chapter. [Formerly 767.830; 2015 c.77 §3]

825.486 Credit for fuel tax. Any tax paid under ORS 319.010 to 319.430 or 319.510 to 319.880 on motor vehicle fuel or fuel as defined in ORS 319.520, either directly by the collection of the tax by the vendor from the consumer or indirectly by adding the amount of the tax to the price of the fuel paid by the

customer, is a credit against the amount of tax otherwise due and payable to the state under ORS 818.225, 825.474, 825.476 and 825.480. A credit under this section shall be allowed when the person claiming the credit submits to the Department of Transportation:

(1) A report under ORS 825.480, 825.490 or 825.492; and

(2) Satisfactory evidence along with the report showing the amount of tax paid by the person under ORS 319.010 to 319.430 or 319.510 to 319.880 during the period reported. [Formerly 767.832; 2015 c.77 §4]

825.488 Fees required of interstate carriers. A person engaged exclusively in the conduct of interstate transportation shall currently pay to the Department of Transportation the road tax mileage fees prescribed by ORS 825.474, 825.476, 825.480, 825.484, 825.490, 825.494 and 825.496. [Formerly 767.835]

825.490 Due date of taxes and fees; penalty; deficiency assessments; refund of overpayment; limitation on audit. (1) On or before the last day of each month, except for the time of payment provided in ORS 825.480 and 825.492, all persons shall report and pay to the Department of Transportation the amount of taxes and fees due from them for the preceding calendar month. However, taxes and fees incurred after the 15th day of any month may be reported and paid to the department on or before the last day of the second calendar month following the month in which the taxes or fees were incurred. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

(2) The department may permit a person to report and pay motor carrier taxes and fees on a periodic basis other than the calendar-month basis prescribed in subsection (1) of this section, provided that the number of reporting periods in any 12-month period is not less than 12. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

(3) Whenever practicable, and in no event later than three years after any report of taxes or fees is filed, the department shall audit the report if the department deems such audit practicable. If the department is not satisfied with the report filed or amount of taxes or fees, including fees for temporary passes required under ORS 825.470, paid to the state by any person, the department may, not later than three years after the report was filed or the taxes or fees were paid, make a proposed assessment of additional taxes or fees due from such person based upon any information available to the department. There shall be added to each such assessment, as a late payment charge, a sum equal to 10 percent of the amount of additional taxes or fees due.

(4) Every such additional assessment shall bear interest at the rate of one percent per month, or fraction thereof, from the last day of the month following the close of the month for which the additional assessment is imposed until paid.

(5) If the additional assessment imposed exceeds by at least five percent but not more than 15 percent the amount of taxes or fees reported or paid, a penalty of five percent of the amount of the additional assessment shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(6) If the additional assessment imposed exceeds by more than 15 percent the amount of taxes or fees reported or paid, a penalty of 20 percent of the amount of the additional assessment shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(7) The department shall give to the person concerned written notice of such additional assessment.

(8) Except as provided in ORS 825.484 (3), the department shall refund to any person the amount of any overpayment caused by any incorrect report.

(9) Whenever the department has made an assessment pursuant to this section that has become final the department may not reopen or reassess such taxes, interest or penalties unless the department is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by the taxpayer pursuant to this chapter or the rules of the department. [Formerly 767.840; 2007 c.71 §246]

825.492 Annual and quarterly reports authorized. (1) Whenever in the judgment of the Department of Transportation the estimated annual tax payable by a carrier will be less than $100, and the vehicles operated by the carrier are of less than 30,000 pounds combined weight, the department may authorize the carrier to file reports annually in lieu of monthly reports required by ORS 825.490 and 825.515. Annual reports and accompanying remittances shall be filed on or before the due date of February 28 for the preceding calendar year.

(2) At the request of a motor carrier, the department may authorize the carrier to file quarterly reports in lieu of monthly reports required by ORS 825.490 and 825.515. Quarterly reports and accompanying remittances due shall be filed on or before the due date as follows: First calendar quarter, May 31; second quarter, August 31; third quarter, November 30; fourth quarter, February 28.

(3) Such authorizations may be withdrawn at any time upon the mailing of notice to the carrier at the last address of record of the carrier with the department. Any provisions of ORS 825.490 and 825.515 otherwise applicable to reports and remittances shall be applicable to reports and remittances under this section. [Formerly 767.845; 2001 c.567 §11]

825.494 Assessment by department upon failure to report tax or fee due. (1) If any person neglects or refuses to make a fee or tax report as required by this chapter, the Department of Transportation shall make a proposed assessment, based upon any information available to the department, for the period for which such person failed to make a report, of the amount of taxes and fees, including fees for temporary passes required under ORS 825.470, due for the period for which such proposed assessment is made.

(2) Each assessment shall bear interest at the rate of one percent per month, or fraction thereof, from the last day of the month following the close of the month for which the assessment is imposed until paid.

(3) There shall be added to every such assessment a penalty of 25 percent of the amount thereof.

(4) The department shall give to such person written notice of such assessment.

(5) Whenever the department has made an assessment pursuant to this section that has become final the department may not reopen or reassess such taxes, fees, interest or penalties unless the department is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by a person subject to this chapter or the rules of the department. [Formerly 767.850; 2007 c.71 §247]

825.496 Reassessment waiver or reduction upon request; charge for failure to appear at hearing. (1) Any person against whom an assessment is made under ORS 825.490 or 825.494, may petition the Department of Transportation for a reassessment within 30 days after service upon the person of notice. If a petition is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is filed within the 30-day period the department shall reconsider the assessment and, if the person has requested in the petition, shall grant such person a hearing and give the person 10 days' notice of the time and place of the hearing. The department has power to continue the hearing from time to time as may be necessary. The decision of the department upon a petition for reassessment shall become final 30 days after service of notice upon the person concerned.

(2) The department may waive or reduce the interest and penalties provided in ORS 825.490 (1) to (6) or 825.494 (2) or (3) on those terms as the department considers proper if request for waiver or reduction is made within 30 days after service of notice of assessment upon the person concerned, or as part of the pleas made in the department's reconsideration of the assessment.

(3) Every assessment made by the department under ORS 825.490 to 825.496 becomes due and payable at the time it becomes final and if not paid to the department when due and payable there shall be added to the assessment a penalty of 10 percent of the amount of the tax.

(4) If any person who has requested a hearing pursuant to this section fails to appear at the scheduled hearing and failed to withdraw the petition for reassessment at least five days before the date of the hearing, the department may require such person to pay a charge of $150 in addition to any other fees, taxes and charges which may be imposed under this chapter. [Formerly 767.855]

825.498 Collection of fees, taxes and other moneys. All fees, taxes and charges imposed by this chapter and ORS chapter 826, all claims and penalties payable by any person under this chapter and ORS chapter 826 and all moneys collected under this chapter and ORS chapter 826, are the property of the state. The Department of Transportation shall collect and receive all fees, taxes, penalties and moneys due or to become due to the state under this chapter and ORS chapter 826 and, to that end, shall bring such actions or take such proceedings, including attachment and garnishment proceedings, in the name of the State of Oregon, as may be necessary. [Formerly 767.860]

825.500 Calculation of interest and penalties for delinquent road use assessment fees and single-use nondivisible load permits; audit. (1) Interest and penalties for delinquent payments of road use assessment fees payable pursuant to the provisions of ORS 818.225 and of single-trip nondivisible load permits shall be calculated in the same manner that interest and penalties are calculated under ORS 825.490 and 825.494.

(2) An audit conducted by the Department of Transportation pursuant to its authority under this chapter may include an examination of records of the carrier pertaining to the road use assessment fee imposed under ORS 818.225. If the audit shows that movement by a carrier exceeds the mileage authorized by a single-trip nondivisible load permit, the department shall determine the amount of the road use assessment fee that is due. The department shall collect the amount due and may impose any penalties or additional assessments authorized by this chapter for delinquent payment of taxes. [Formerly 767.862; 1997 c.275 §28]

825.502 Payment of taxes and fees by credit card; rules. For payment of any weight-mile taxes and fees, the Department of Transportation may:

(1) Accept payment of taxes and fees by credit card. Any payment made by credit card shall be for the full amount of the tax or fee, except that a surcharge may be added to the amount tendered by the customer to offset fees charged to the department for acceptance and use of the credit card.

(2) Adopt reasonable rules as necessary or proper for the administration of this section. [Formerly 767.863]

825.504 Warrant procedure for collecting tax, fee, penalty or assessment. (1) If any tax, or fee in lieu of tax, reported due, or any final assessment made by the Department of Transportation under ORS 825.490, 825.494 and 825.496, including any penalties or charges therein imposed, or any final penalty imposed under ORS 825.950, 825.955 or 825.960, is not paid in full, the department may issue a warrant for the amount of the tax, fee or assessment, with the added penalties or charges, interest and the cost of executing the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer found within that county, and to levy upon any currency of the taxpayer found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect amounts under this section, and in the execution of the warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) Until a warrant issued under this section is satisfied in full, the department has the same remedies to enforce the claim for the tax, fee or assessment as if the state had recovered judgment against the taxpayer for the amount of the tax, fee or assessment.

(5) The procedures authorized by this section may also be used for collection of any fees and penalties imposed on persons registering vehicles under ORS chapter 826. [Formerly 767.865; 1997 c.275 §29; 2003 c.576 §222; 2011 c.661 §12]

825.506 Deposit or bond to secure payment of fees, taxes, charges and penalties. (1) If the Department of Transportation finds it necessary in order to insure the collection of any fees, taxes, charges or penalties imposed upon a carrier pursuant to this chapter or ORS 818.225, the department may at the time and as a condition of granting a certificate or permit, or continuing the same, or as a condition of issuing a motor vehicle registration device, require a carrier to deposit and keep on deposit with the department a sum in an amount determined proper by the department, taking into account the nature and scope of the carrier's operations. Moneys deposited under this section shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. The deposit required may be increased or reduced by the department at any time. In determining the necessity for an applicant or carrier to maintain a deposit the department shall consider the applicant or carrier's financial capability and responsibility and the department's prior experience, if any, in collecting fees, taxes, charges or penalties from the applicant, carrier or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the carrier's authority.

(2) To secure payment of sums payable by the carrier the department may accept in lieu of such deposit:

(a) A bond in the form prescribed by the department; or

(b) Bonds, negotiable by delivery, of the State of Oregon, school districts therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both principal and interest, equal in amount to the amount of the requested deposit.

(3) So long as the deposit remains unencumbered the depositor is entitled to collect the interest upon the securities described in subsection (2)(b) of this section. The department shall hold the securities upon such terms as the department shall designate and approve pursuant to the provisions of this chapter, and shall deliver such securities to the State Treasurer, who shall receive and hold them subject to the lawful orders of the department. The State Treasurer and the surety of the treasurer shall be liable upon the official bond of the treasurer for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by the treasurer in the mailing, insuring, shipping or delivering of any such securities, or of the interest coupons attached thereto as they mature.

(4) If a carrier ceases to be a carrier under this chapter, within a reasonable time of the receipt by the department of all payments due, the department shall refund or have returned to the carrier all deposits and securities remaining to the carrier's credit and shall release the surety on any bond given under this section.

(5) Any applicant or carrier required under this section to make a deposit to secure the payment of fees, taxes, charges or penalties may by proper petition demand a hearing on the necessity of such deposit or the reasonableness of the amount required. A hearing shall be granted and held within 10 days after the demand therefor. The decision of the department shall become final 10 days after service of the order upon the applicant or carrier concerned. [Formerly 767.870]

825.507 Limitations on cancellation of bond; suspension of authority. (1) No bond filed pursuant to ORS 825.506 may be canceled or otherwise terminated at any time prior to its expiration until the surety company which executed the same, has filed with the Department of Transportation a notice of cancellation as provided in such bond. Such cancellation shall be effective not less than 30 days from the date of receipt, and no agreement between the parties thereto shall operate to avoid this restriction upon cancellation.

(2) If any bond filed pursuant to ORS 825.506 becomes inoperative, the authority under the certificate or permit involved shall cease and be suspended insofar as it pertains to any affected vehicles until the requirements of ORS 825.506 have been met by the carrier. [Formerly 767.795]

825.508 Use of collection agency to obtain moneys due. (1) In carrying out the duties under ORS 825.498, the Department of Transportation may engage the services of a collection agency to collect any of the fees, taxes, penalties and moneys due to the state under this chapter and ORS chapter 826. The department may engage the services by entering into agreements to pay reasonable charges on a contingent fee or other basis.

(2) The department may assign to the collection agency, for collection purposes only, any of the fees, taxes, penalties and moneys due the state under this chapter and ORS chapter 826.

(3) The collection agency may bring such actions or take such proceedings, including attachment and garnishment proceedings, as may be necessary. [Formerly 767.875]

825.509 Writing off uncollected moneys due. (1) Any fee, tax, penalty or money due the state assigned to a collection agency pursuant to ORS 825.508 that remains uncollected for two years after the date of the assignment meets the criteria for uncollectibility formulated pursuant to ORS 293.240.

(2) ORS 293.245 applies to any fee, tax, penalty or money due the state and described in subsection (1) of this section. [Formerly 767.880; 2011 c.223 §4]

825.515 Daily records and monthly reports by carriers. (1) Every for-hire carrier and private carrier shall keep daily records, upon forms prescribed by the Department of Transportation, of all vehicles used during the current month.

(2) On or before the last day of the month following, except as otherwise permitted under ORS 825.492, they shall certify to the department, upon forms prescribed therefor, the true and correct summaries of their daily records which shall show the extreme miles traveled in this state during the preceding month, the amount of fuel tax paid to the state during the preceding month, and such other information as the department may require.

(3) The daily records shall be kept on file in the office of the carrier and thereafter preserved until written permission for their destruction is given by the department. [Formerly 767.905]

825.517 Certain records not public. (1) The following are not public records unless the public interest requires disclosure in the particular instance:

(a) Reports from motor carriers required to be filed with the Department of Transportation in connection with the imposition or collection of any tax.

(b) Information collected by the department from a motor carrier for the purpose of conducting a tax audit.

(2) A motor carrier to whom the information pertains, or a person who has written permission from the carrier, may inspect information described in subsection (1) of this section.

(3) The department, upon request or as required by law, shall disclose information from the records described in subsection (1) of this section to a government agency for use in carrying out its governmental functions. [1997 c.501 §2]

(Multijurisdictional Agreements)

825.550 Multijurisdictional agreement for collection of weight-mile taxes; rules. (1) The Department of Transportation may enter into an agreement with the authorized representatives of any jurisdiction that imposes weight-mile taxes, in order to form a multijurisdictional agreement for the singular collection of the total weight-mile taxes claimed due by any of the jurisdictions that are party to the agreement. An agreement established under authority granted by this section:

(a) May allow motor carriers to pay the total weight-mile taxes that are claimed due to any jurisdiction that is a party to the agreement.

(b) May provide for collection of all weight-mile taxes claimed due by any party to the agreement, on vehicles that are engaged in interjurisdictional commerce or combined interjurisdictional and intrajurisdictional commerce.

(c) May include provisions necessary to facilitate the determination and distribution of weight-mile tax moneys among the various jurisdictions.

(d) May provide that the department may deny any person further benefits under the agreement until all taxes have been paid, if the department determines that the person should have paid additional taxes.

(e) May provide for arrangements with agencies of this state and other jurisdictions for joint audits of owners of vehicles availing themselves of this agreement and for the exchange of audit information on those owners.

(f) May authorize the department to suspend or cancel any benefits under the agreement, if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.

(2) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section. Nothing in an agreement shall affect the right of the department to adopt rules as described in this section.

(3) An agreement shall be in writing and shall be filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.

(4) Nothing in an agreement shall affect the right of the department to act under this section.

(5) An agreement shall not provide for any benefit, exemption or privilege with respect to any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except weight-mile taxes, fees and requirements. [Formerly 767.882]

825.555 International fuel tax agreement; rules; fees. (1) The Department of Transportation may enter into an international fuel tax agreement with jurisdictions outside of this state to provide for cooperation and assistance among member jurisdictions in the administration and collection of taxes imposed on motor carriers for the consumption of all fuels used in vehicles operated interstate.

(2) An agreement under this section may:

(a) Provide for determining a base state for motor carriers for purposes of the agreement.

(b) Impose record keeping requirements.

(c) Specify audit procedures.

(d) Provide for exchange of information among jurisdictions.

(e) Provide criteria for determining which carriers are eligible to receive the benefits of the agreement.

(f) Define qualified motor vehicles.

(g) Specify conditions under which bonds are required.

(h) Specify reporting requirements and periods, including but not limited to specifying penalty and interest rates for late reporting.

(i) Determine methods for collecting and forwarding of motor fuel taxes, penalties and interest to another jurisdiction.

(j) Provide that the Department of Transportation may deny any person further benefits under the agreement until all motor fuel taxes have been paid, if the department determines that additional motor fuel taxes are owed by the person.

(k) Authorize the department to suspend or cancel benefits under the agreement for any person who violates any term or condition of the agreement or any law or rule of this state relating to motor carriers or vehicles.

(L) Contain such other provisions as will facilitate the agreement.

(3) An agreement may not provide for any benefit, exemption or privilege with respect to any fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except for motor fuel taxes and requirements related to motor fuel taxes.

(4) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section. Nothing in the agreement shall affect the right of the department to adopt rules as provided in ORS chapter 823 and this chapter.

(5) An agreement shall be in writing and shall be filed with the department within 10 days after execution or on the effective date of the agreement, whichever is later.

(6) The department shall adopt rules establishing an annual fee to be paid by each motor carrier receiving benefits from an agreement entered into under this section. In establishing fees, the department shall consider the size of the motor carrier's fleet. Fees established under this subsection shall be designed to recover the full direct and indirect costs to the department that result from participation in the agreement, but the department may not establish a fee under this subsection that exceeds $650. [Formerly 767.884; 1997 c.275 §30; 2001 c.698 §1]

GREENHOUSE GAS EMISSIONS

825.600 Purpose of ORS 825.601 to 825.615. The purpose of ORS 825.601 to 825.615 is to reduce greenhouse gas and other emissions from the use of commercial vehicles, as defined in ORS 825.601. [2011 c.349 §2]

Note: 825.600 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 825 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

825.601 Definitions. As used in ORS 825.601 to 825.615:

(1) "Auxiliary power unit" means any device that is installed on a commercial vehicle that provides electrical, mechanical or thermal energy to the vehicle cab, a sleeper berth, a bus passenger compartment or any other vehicle cab, as an alternative to idling the primary engine.

(2) "Cargo temperature control unit" means any device used for controlling the temperature of a cargo transport area.

(3) "Commercial vehicle" means a commercial vehicle with a gross vehicle weight rating that is greater than 10,000 pounds.

(4) "Idle reduction technology" means any device or system of devices that is installed on a commercial vehicle and that is designed to provide heat, air conditioning or electricity that would otherwise require the operation of the primary engine.

(5) "Idling" means operation of the primary engine of a commercial vehicle while the vehicle is stationary.

(6) "Primary engine" means an internal combustion engine attached to a commercial vehicle that provides the power to propel the vehicle into motion and maintain motion. [2011 c.349 §3]

Note: 825.601 to 825.615 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 825 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

825.605 Unlawfully idling the primary engine of a commercial vehicle; penalty. (1) A person commits the offense of unlawfully idling the primary engine of a commercial vehicle if the person is operating a commercial vehicle and the person:

(a) Stops the commercial vehicle; and

(b) Allows the engine of the commercial vehicle to idle for more than five minutes in any continuous 60-minute period.

(2) For purposes of this section, a person is not idling a primary engine if the person:

(a) Operates an auxiliary power unit, generator set or other idle reduction technology as a means to heat, air condition or provide electrical power.

(b) Operates a cargo temperature control unit to maintain the cargo.

(3) A citation issued under this section may be issued to the person operating the commercial vehicle, the motor carrier as defined in ORS 825.005, or both.

(4) The offense described in this section, unlawfully idling the primary engine of a commercial vehicle, applies on any premises open to the public.

(5) The offense described in this section, unlawfully idling the primary engine of a commercial vehicle, is a Class C traffic violation. [2011 c.349 §4]

Note: See note under 825.601.

825.610 Exemptions from requirements in ORS 825.605. ORS 825.605 does not apply to a commercial vehicle if it is necessary to idle the primary engine of the commercial vehicle:

(1) Due to traffic, a traffic control device or mechanical difficulties over which the operator has no control or at the direction of a law enforcement official or road authority.

(2) Due to the need to operate defrosters, heaters or air conditioners or installing equipment necessary to comply with manufacturers' operating requirements, specifications and warranties or with federal, state or local safety regulations.

(3) Because the commercial vehicle is a police, fire, ambulance, public safety, military, utility service or road authority vehicle, or any other vehicle being used to respond to an emergency or for other public safety purposes, or being actively used for training for emergencies or public safety.

(4) For maintenance, service, repair or diagnostic purposes or for particulate matter trap regeneration.

(5) For a state or federal inspection to verify that all equipment is in good working order.

(6) To power work-related mechanical, safety, electrical or construction equipment installed on the vehicle that is not used for propulsion.

(7) Because the commercial vehicle is an armored vehicle and a person must remain inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded.

(8) To maintain the comfort of commercial bus passengers while passengers are on board.

(9) In a commercial vehicle with a gross vehicle weight rating of more than 26,000 pounds, for purposes of air conditioning or heating during a rest or sleep period and the outside temperature is less than 50 degrees or greater than 75 degrees Fahrenheit at any time during the rest or sleep period. This subsection applies to a commercial vehicle with a sleeper berth compartment that is parked in any place that a commercial vehicle is legally permitted to park, including, but not limited to, a fleet trucking terminal, commercial vehicle stop or designated rest area. This exemption does not apply if the commercial vehicle is equipped with an auxiliary power unit or other suitable idle reduction technology, if the commercial vehicle is parked at a location equipped with suitable stationary idle reduction technology that is available for use, or during a rest or sleep period when the commercial vehicle is parked on or adjacent to a public or private educational institution offering education in all or part of kindergarten through grade 12, unless the outside temperature is greater than 75 degrees Fahrenheit and the auxiliary power unit provides heating only, in which case the person may idle the primary engine to provide air conditioning.

(10) In a commercial vehicle with a gross vehicle weight rating of more than 26,000 pounds, for purposes of air conditioning or heating while waiting to load or unload the commercial vehicle or while actually loading or unloading the commercial vehicle, and the outside temperature is less than 50 degrees or greater than 75 degrees Fahrenheit at the time. This exemption does not apply if the commercial vehicle is equipped with an auxiliary power unit or other suitable idle reduction technology, or if the commercial vehicle is parked at a location equipped with suitable stationary idle reduction technology that is available for use, unless the outside temperature is greater than 75 degrees Fahrenheit and the auxiliary power unit provides heating only, in which case the person may idle the primary engine to provide air conditioning.

(11) For a maximum of 30 minutes while waiting to load or unload the commercial vehicle or while actually loading or unloading the commercial vehicle during a single loading or unloading event. [2011 c.349 §5]

Note: See note under 825.601.

825.615 Preemption of local regulation of idling; exception. (1) The authority to regulate the idling of primary engines in commercial vehicles is vested solely in the Legislative Assembly. A city, county or other local government may not enact any charter provision, ordinance, resolution or other provision regulating the idling of primary engines in commercial vehicles.

(2) Notwithstanding subsection (1) of this section, a city, county or other local government may enforce any charter provision, ordinance, resolution or other provision regulating the idling of primary engines in commercial vehicles in effect on January 1, 2011. [2011 c.349 §6]

Note: See note under 825.601.

PENALTIES

825.950 Civil penalty for violation of this chapter, ORS chapter 818 or 826, or rule or order of department. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, in addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of any provision of this chapter, ORS chapter 818 or 826 or any order, rule or decision of the Department of Transportation shall incur a civil penalty of not more than $100 for every such violation.

(b) In addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation

of ORS 825.100 by offering to transport or transporting household goods without a certificate shall incur a civil penalty of not more than $1,000 for every such violation.

(2) Each violation described in this section is a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that procures, aids or abets in the violation is a violation under this section and subject to the civil penalty provided in this section.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.

(4) The Department of Transportation may reduce any civil penalty provided for in this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of such penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action may not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

(6) Any motor carrier of household goods found knowingly to have assessed charges for transportation service less than published in its tariffs or written contracts on file with the department may be directed to collect the undercharges from the persons liable for the undercharges and to remit the undercharges to the department in addition to any monetary penalties imposed against the carrier for charging less than the tariff or contract prescribes.

(7) Any motor carrier of household goods found to have assessed charges for transportation service more than the rates that have been legally filed with and prescribed by the department shall refund the overcharges to the persons from whom collected. If the carrier is unable to do so, the carrier may be required to remit such overcharges to the department in addition to any monetary penalties imposed against the carrier for charging more than the applicable tariff or contract prescribes. [Formerly 767.470; 1997 c.275 §31; 1997 c.722 §1; 2003 c.754 §10; 2009 c.433 §14; 2015 c.283 §22]

825.955 Civil penalty for violation of provisions relating to driver equipment compliance form or drug and alcohol testing program; rules. (1) In addition to any other penalties provided by law, the Department of Transportation may impose a civil penalty of not more than $1,000 for:

(a) Submittal of a false certification to the department on a driver equipment compliance check form;

(b) Failure by a motor carrier to return to the department as required by rule a driver equipment compliance check form; or

(c) Failure of a motor carrier to establish or participate in a drug and alcohol testing program as required by ORS 825.410.

(2) Each violation specified in subsection (1) of this section is a separate offense, and in the case of a continuing violation, each day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the penalty provided in this section.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.

(4) The department may reduce any civil penalty provided for in this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

(6) The department shall adopt rules describing the driver equipment compliance check form referred to in subsection (1) of this section. [Formerly 767.995; 1997 c.275 §32; 1999 c.1099 §5; 2009 c.395 §11]

825.960 Department action against employer when department receives notification of violation of out-of-service order; civil penalty. (1) When the Depart-

ment of Transportation receives notification that a person has violated an out-of-service order or notice, the department shall impose a civil penalty of not less than $2,750 or more than $25,000 on the employer of an operator of a commercial motor vehicle if the department finds that the employer knowingly allowed, permitted, authorized or required the operator to violate the order or notice.

(2) For purposes of this section, "notification" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice.

(3) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(4) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter. [Formerly 767.996; 1997 c.275 §33; 2007 c.122 §5; 2009 c.395 §12]

825.990 Criminal penalties. (1) Except as otherwise provided in subsection (2) of this section, every person who violates or procures, aids or abets violation of this chapter and any person who refuses or fails to obey any order, decision or rule, made under or pursuant to this chapter commits a Class A traffic violation.

(2) Knowingly violating an out-of-service notice issued under authority of the Department of Transportation is a Class A misdemeanor.

(3) A person is subject to the penalties under subsection (4) of this section if the person knowingly:

(a) Transports any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

(c) Materially violates terms of any permit or authority issued to the person under this chapter or ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under this chapter for the safe transportation of hazardous wastes.

(e) Fails to include material information required under rules of the Department of Transportation in any application for any permit or authority to transport hazardous waste under this chapter.

(f) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.

(4) Subject to ORS 153.022, violation of subsection (3) of this section is a Class B misdemeanor. [Subsections (1) and (2) formerly 767.990; subsections (3) and (4) formerly 767.993; 1999 c.1051 §233; 2011 c.597 §308]

Chapter 826

2019 EDITION

Registration of Commercial Vehicles

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826.001 Definitions. As used in this chapter:

(1) "Combined weight" means the total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles.

(2) "Commercial vehicle" means a vehicle that:

(a) Is used for the transportation of persons for compensation or profit; or

(b) Is designed or used primarily for the transportation of property.

(3) "Department" means the Department of Transportation. [Formerly 768.001]

826.003 Rules. The Department of Transportation may adopt rules regarding registration records for vehicles registered under this chapter. [1995 c.733 §82b]

826.005 Authority for reciprocal registration agreements; permitted provisions; requirements; limitations. (1) The Department of Transportation may enter into agreements with the duly authorized representatives of any jurisdiction that issues registration to establish reciprocal privileges or registration exemptions for vehicles as described in this section. An agreement entered into by the department under the authority granted by this section may establish exemptions from proportional registration fees.

(2) An agreement shall only grant the privileges, benefits and exemptions to a vehicle or the registrant of a vehicle if the vehicle is any of the following:

(a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

(b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business. To qualify under this paragraph, the vehicle must be assigned to the place of business and the place of business must be the place from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.

(c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

(3) An agreement shall retain the right of the department to make the final determination as to the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper place of registration. An agreement shall retain the right of the department to confer with the departments of other jurisdictions affected when making a determination under this subsection.

(4) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration taxes, fees and requirements.

(5) An agreement must provide that any vehicle registered in this state will receive a similar kind or degree of exemptions, benefits and privileges when operated in another jurisdiction that is party to the agreement as vehicles registered in the other jurisdiction receive when operated in this state.

(6) An agreement, in the judgment of the department, shall be in the best interest of this state and its citizens, shall be fair and equitable to this state and its citizens and shall be determined on the basis and recognition of benefits that accrue to the economy of this state from the uninterrupted flow of commerce.

(7) An agreement may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or privilege under the agreement if the vehicle is operated from a base located in the other jurisdiction.

(8) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease, to receive benefits, exemptions and privileges under the agreement.

(9) An agreement may authorize the department to suspend or cancel any exceptions, benefits or privileges granted to any person under the agreement if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.

(10) All agreements shall be in writing and filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.

(11) An agreement may be a limited type agreement with any state bordering this state as described in this subsection. An agreement described under this subsection is subject to all of the following:

(a) The benefits, exemptions and privileges under the agreement shall only be extended to vehicles or a class of vehicles as specified in the agreement.

(b) The agreement shall be applicable only within an area in each state that is situated along the boundary between the states and that is substantially equal in size.

(c) The usage permitted of the vehicles in the two areas shall be as substantially equal as may be practicable.

(d) The areas and usage subject to the agreement shall be described in the agreement.

(e) Proportional registration shall not be required under the agreement.

(f) The agreement shall comply with other mandatory provisions of this section and may contain any other provisions described under this section.

(g) A vehicle operating under the agreement may be required to obtain a permit under ORS 803.610.

(12) An agreement may require the display or submission of evidence of registration for any vehicle operating under the agreement. [Formerly 768.003]

826.007 Authority for proportional registration agreements; permitted provisions; requirements; limitations; rules. The Department of Transportation may enter into agreements with the duly authorized representatives of any jurisdiction that issues out-of-state registration to provide for proportional registration of vehicles and for the apportionment of registration fees and other fixed fees and taxes on vehicles proportionally registered in this state and the other jurisdiction. All of the following apply to an agreement established under authority granted by this section:

(1) An agreement may provide proportional registration only for commercial vehicles that are engaged in interjurisdictional commerce or combined interjurisdictional and intrajurisdictional commerce.

(2) An agreement may provide for proportional registration for vehicles individually or in fleets but must comply with the requirements for proportional registration under ORS 826.009 for all proportionally registered vehicles and with the requirements under ORS 826.011 for all proportionally registered fleets.

(3) An agreement may include provisions necessary to facilitate the administration of proportional registration.

(4) Any apportionment of registration fees and other fixed vehicle fees or taxes may be made on a basis commensurate with and determined on the miles traveled on and use made of the highways of this state as compared with the miles traveled on and use made of other jurisdictions' highways, or may be made on any other equitable basis of apportionment.

(5) No agreement shall contain any provision that requires a vehicle to be proportionally registered if the vehicle is:

(a) Registered by this state;

(b) Operating in this state under any vehicle permit that allows operation of an unregistered vehicle; or

(c) Legally operated in this state under an exemption provided under ORS 803.305.

(6) Nothing in an agreement shall affect the right of the department to adopt rules as described in this subsection. The department may adopt any rules the department deems necessary to effectuate and administer the provisions of the agreement.

(7) An agreement shall only provide for proportional registration of vehicles if the vehicle is any of the following:

(a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

(b) Registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business where the vehicle has been assigned and from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.

(c) Registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

(8) An agreement shall retain the right of the department to make the final determination as to the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper place of registration. An agreement shall retain the right of the department to confer with the departments of other jurisdictions affected when making a determination under this subsection.

(9) An agreement may provide that the department may deny any person further benefits under the agreement until all fees or taxes have been paid if the department determines that the person should have proportionally registered more vehicles in this state or paid additional fees or taxes on vehicles proportionally registered in this state.

(10) An agreement may provide for arrangements with agencies of this state or other jurisdictions for joint audits of registrants of proportionally registered vehicles and for the exchange of audit information on persons who have proportionally registered vehicles.

(11) An agreement may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefits under the agreement if the vehicle is operated from a base located in the other jurisdiction.

(12) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease, to receive benefits of proportional registration under the agreement.

(13) An agreement may authorize the department to suspend or cancel any benefits under the agreement if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.

(14) All agreements shall be in writing and shall be filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.

(15) Vehicles that are proportionally registered under an agreement, whether individually or in a fleet, are fully registered in this state for purposes of ORS 803.300 and any other portion of the vehicle code and are accorded the same privileges and duties as other vehicles registered in this state even though the vehicle may have primary registration in some other jurisdiction. This subsection does not grant authority required for intrastate movement where such authority is required under ORS chapter 825. Such authority must be granted in accordance with ORS chapter 825.

(16) An agreement may only provide the benefits of proportional registration to a vehicle that is registered either proportionally or otherwise in at least one other jurisdiction in addition to this one.

(17) Nothing in an agreement shall affect the right of the department to act under this subsection. The department may refuse to issue proportional registration in this state for vehicles from jurisdictions that do not grant similar privileges for vehicles from this state.

(18) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration taxes, fees and requirements.

(19) An agreement may control the requirements for type, manner of display, number and other provisions relating to registration plates, registration cards or other proof of registration for vehicles that are subject to the agreement. [Formerly 768.005]

826.008 Certain records not public. (1) The following are not public records unless the public interest requires disclosure in the particular instance:

(a) Mileage information required to be filed with the Department of Transportation under agreements authorized by ORS 826.007.

(b) Information collected by the department from a motor carrier for the purpose of conducting an audit under an agreement authorized by ORS 826.007.

(2) A motor carrier to whom the information pertains, or a person who has written permission from the carrier, may inspect information described in subsection (1) of this section.

(3) The department, upon request or as required by law, shall disclose information from the records described in subsection (1) of this section to a government agency for use in carrying out its governmental functions. [1997 c.501 §4]

826.009 Proportional registration of commercial vehicles. Proportional registration allows commercial vehicles to comply with registration requirements of more than one jurisdiction and to have registration fees, taxes or other fixed fees apportioned among the jurisdictions in which the vehicles are being operated. A vehicle may be registered under proportional registration if the vehicle qualifies for proportional registration under an agreement entered into under ORS 826.007. If a vehicle is going to be proportionally registered as part of a fleet, ORS 826.011 must be complied with in addition to this section. A vehicle is registered in this state if the vehicle is proportionally registered under this section. The following apply to proportional registration:

(1) The terms of an agreement established under ORS 826.007 control all of the provisions of proportional registration, including but not limited to the following, except as otherwise provided by this section:

(a) Qualification.

(b) Apportionment of fees, taxes and other fixed fees.

(c) Application and information required.

(d) Requirements for type, manner of display, number or any other provision relating to registration plates, registration cards and other proof of registration.

(e) Any other provision relating to the registration of proportionally registered vehicles.

(2) When initially registered, the registration fees for vehicles registered under this section may be reduced according to the schedule provided under ORS 826.021.

(3) The registration period for proportionally registered vehicles is a period of four consecutive quarters. The period begins on the first day of any calendar quarter and ends on the last day of the fourth consecutive quarter. All vehicles within a proportionally registered fleet shall be registered for the same registration period. Each car-

rier may select the calendar quarter in which the registration will begin except that, if necessary for administrative convenience, the Department of Transportation may require a carrier to adopt a registration year chosen by the department.

(4) The department may issue appropriate registration cards, stickers, permits, tabs, plates or other suitable identification devices the department considers convenient for proportionally registered vehicles. The fees for such stickers, permits, tabs or plates are as provided under ORS 826.023.

(5) Any applicant whose application for proportional registration under this section has been accepted by the department shall preserve the records on which the application is based for a period of four years following the year or the period upon which said application is based. Upon request of the department, the applicant shall make such records available to the department at its office for audit as to accuracy of mileage, number of vehicles, weights, computations and payment of fees or shall pay the reasonable costs of an audit at the home office of the applicant by a duly appointed representative of the department. An applicant shall comply with any audit provisions under the agreement allowing the registration.

(6) If a provision concerning the registration of vehicles is not provided under the agreement or under this section, provisions of the vehicle code applicable to registration shall be applicable to proportionally registered vehicles.

(7) If a vehicle qualifies for proportional registration, the department may issue temporary proportional registration permits under ORS 826.029 to allow operation of the vehicles pending issuance of evidence of proportional registration.

(8) The department may allow a carrier to operate on expired registration plates and registration for up to one extra quarter if the renewal application has been submitted and the required fees for registration have been paid on or before the last day of the registration period for the vehicles. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.

(9) Vehicles registered and identified under this section shall be deemed to be fully registered in this state for any type of movement or operation, except that in these instances in which a grant of authority is required for intrastate movement or operation, no such vehicle shall be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or right by the department and unless said vehicle is being operated in conformity with such authority and rights.

(10) Registration cards may be issued for proportionally registered vehicles. Registration cards issued for proportionally registered vehicles shall be carried on the vehicle at all times or, in the case of a combination of vehicles, the registration card for a trailer may be carried in the vehicle supplying the motive power.

(11) In accordance with provisions of the agreement establishing proportional registration, the department may suspend or cancel the exemptions, benefits or privileges granted thereunder to a person who violates any of the conditions or terms of such agreements or arrangements or who violates the laws of this state relating to vehicles or regulations lawfully promulgated thereunder.

(12) A vehicle may be registered under this section prior to issuance of a certificate of title for the vehicle. [Formerly 768.007]

826.010 Quarterly payment of registration fees for vehicles registered under ORS 826.009. (1) Registration fees for commercial vehicles registered under the proportional registration provisions of ORS 826.009 may be paid quarterly provided that:

(a) The amount of Oregon apportioned registration fees for the carrier exceeds $1,000 per year; and

(b) The registration fees are paid in equal quarterly installments.

(2) A carrier that pays in quarterly installments under this section shall pay a $4 administrative processing fee with the first quarter payment for each year that the carrier pays in quarterly installments.

(3) Authorization for quarterly payment does not affect the registration period specified in ORS 826.009. [2003 c.618 §35]

826.011 Proportional fleet registration. Any registrant of a fleet of commercial vehicles that are operated in this state and in other jurisdictions may register the fleet under proportional fleet registration under this section in lieu of registering the vehicles as provided under the vehicle code if the fleet qualifies for proportional fleet registration under this section. Proportional fleet registration allows fleets of commercial vehicles to comply with registration requirements of more than one jurisdiction and to have registration fees, taxes or other fixed fees apportioned among the jurisdictions in which vehicles from the fleet are being operated. The following apply to proportional fleet registration:

(1) A vehicle may be registered under proportional fleet registration if the vehicle qualifies for proportional registration under

an agreement entered into under ORS 826.007 and if the vehicle is part of a fleet that qualifies under this section.

(2) Except as provided in this section, the terms of an agreement established under ORS 826.007 and the provisions of ORS 826.009 control all of the provisions of proportional fleet registration, including but not limited to, the following:

(a) Qualification.

(b) Apportionment of fees, taxes and other fixed fees.

(c) Application and information required.

(d) Requirements for type, manner of display, number or any other provision relating to registration plates, registration cards and other proof of registration.

(e) Any other provision relating to the registration or titling of proportionally registered vehicles.

(3) In order to register vehicles under proportional fleet registration under this section, the vehicles must be part of a fleet that includes one or more commercial vehicles as designated by the Department of Transportation.

(4) The initial application for proportional fleet registration shall be completed according to interstate agreements or administrative rules.

(5) The department may issue any distinctive proof of registration under this section the department considers convenient. The fee for the issuance of plates, stickers or other suitable identification for proportionally registered fleets is as provided under ORS 826.023.

(6) Vehicles acquired by the registrant after the commencement of the registration period and subsequently added to a proportionally registered fleet shall be proportionally registered according to interstate agreements or administrative rules.

(7) If any vehicle is withdrawn from a proportionally registered fleet, the registrant of such fleet shall so notify the department on appropriate forms to be prescribed by the department. The department may require the registrant to surrender proportional registration cards and such other identification devices issued with respect to such vehicle as the department may deem advisable. Procedures for obtaining credit for fees paid on vehicles that are withdrawn from a proportionally registered fleet are provided under ORS 826.027.

(8) In addition to any grounds for denial of proportional registration benefits under ORS 826.009, or an agreement under ORS 826.007, the department may deny the registrant of a proportionally registered fleet the right of any further benefits under proportional registration if the department determines that the person should have prorated more vehicles in this state. The denial under this subsection may continue until the fees for such additional vehicle or vehicles that have been prorated have been paid. [Formerly 768.009]

826.013 Registration weight. (1) Vehicles registered under ORS 826.009, 826.011 or 826.031 are required to establish a registration weight.

(2) Registration weight is established for the following purposes:

(a) The registration weight is the weight used in the declaration of weight under ORS 826.015 to determine the registration fees under ORS 826.017 and ORS 803.420 for vehicles required to establish registration weight under this section.

(b) A vehicle that is required to establish registration weight by this section is in violation of ORS 803.315 if the vehicle is operated on a highway of this state at a weight in excess of the registration weight except when carrying a load:

(A) Under the provisions of ORS 376.305 to 376.390;

(B) Of over 105,500 pounds combined weight under a variance permit issued under ORS 818.200;

(C) Under a registration weight trip permit issued under ORS 803.600; or

(D) Consisting of towed motor vehicles.

(3) Registration weight is established at the time of registration and whenever the vehicle has been altered or reconstructed by furnishing a declaration of weight described under ORS 826.015 that contains a statement of the maximum combined gross weight at which the vehicle will be operated on the highways of this state except when carrying loads described under subsection (2)(b) of this section. The maximum registration weight for any vehicle required to establish a registration weight under this section is 105,500 pounds. Vehicles operating at weights above 105,500 pounds will operate under a variance permit issued under ORS 818.200.

(4) The weight of a camper, a trailing manufactured structure or the following trailing vehicles should not be included in the registration weight:

(a) Trailers with a loaded weight of 8,000 pounds or less.

(b) Special use trailers, travel trailers and fixed load vehicles.

(c) Towed motor vehicles. [Formerly 768.011; 2003 c.655 §142]

826.015 Declaration of weight. (1) For vehicles registered under ORS 826.031 or under proportional registration pursuant to ORS 826.009 or 826.011, the declaration of weight shall contain the combined weight of the vehicle.

(2) For commercial buses, the declaration of weight shall contain the unloaded weight of the vehicle plus the unloaded weight of any bus trailer to be used in combination with the vehicle. The declaration shall also indicate the number of persons, including the driver, to be carried in the vehicle, plus the number of persons to be carried on any bus trailer to be used in combination with the vehicle. [Formerly 768.013; 2017 c.45 §4]

826.017 Registration fees for proportionally registered vehicles. Registration fees for vehicles registered under ORS 826.009, 826.011 or 826.031 are as provided in ORS 803.420 for vehicles of the same class. The fees are for an entire registration period and are payable when a vehicle is registered and upon renewal of registration. The Department of Transportation shall apportion any fee under this section to reflect the number of quarters registered. [Formerly 768.015]

826.019 International Registration Plan fee. (1) In addition to any other fee collected for registration, the Department of Transportation shall collect an International Registration Plan fee from each applicant for proportional registration under this chapter.

(2) The amount of the fee required by this section shall be calculated annually by the department. The total fees collected by the department under this section may not exceed the amount of any annual fee for membership in the International Registration Plan. The department shall determine the amount to be paid by each applicant by dividing the amount of any membership fee by the total number of applications for proportional registration submitted in the previous calendar year.

(3) Fees collected under this section shall be used to pay any membership fees required by the International Registration Plan agreement so long as the state is a signatory to the agreement. [1995 c.145 §2]

826.021 Proration of fees for proportionally registered vehicles; adjustment of fees and registration periods by department; rules. (1) For vehicles that are initially registered under proportional registration under ORS 826.009 or 826.011, the Department of Transportation shall prorate the fees as provided in this subsection according to the registration period elected by the registrant and approved by the department for the vehicle or fleet of vehicles. The proration of fees under this subsection shall be as follows except that in no case shall the fee on which Oregon fees are based be less than $10:

(a) If the vehicle is registered after the expiration of the first quarter of the registration period, three-fourths of the fees shall be used to determine the Oregon fees.

(b) If the vehicle is registered after the expiration of the first half of the registration period, one-half of the fees shall be used to determine the Oregon fees.

(c) If the vehicle is registered after the expiration of three-fourths of the registration period, one-fourth of the fees shall be used to determine the Oregon fees.

(2) The department, by rule, may adjust registration fees or registration periods for a vehicle, as is administratively convenient for the department, if:

(a) The vehicle is changed from one type of registration to another type; or

(b) Any other change relating to the registration of the vehicle is made where it would be administratively convenient for the department to make such adjustments. [Formerly 768.017]

826.023 Fees for cards, plates and stickers. (1) The fee for issuance of a duplicate or replacement registration card is $3.

(2) The fee for issuance of each original, replacement or duplicate registration plate is $3 and includes a registration card and sticker.

(3) The fee for renewal of a registration plate is $3 and includes a registration card and sticker.

(4) The fee for issuance of replacement registration stickers is $3.

(5) If a second plate is required for one vehicle, the fee for the plate or for a sticker for the plate is $3. [Formerly 768.021; 2003 c.753 §2; 2017 c.750 §70]

826.025 Duplicate or replacement registration cards. The Department of Transportation may issue a duplicate or replacement registration card when:

(1) The department receives an application indicating the loss, mutilation or destruction of a registration card; and

(2) The fee for issuance of a duplicate or replacement card under ORS 826.023 is paid to the department. [Formerly 768.023]

826.027 Transfer of registration; withdrawal of vehicle from fleet. (1) The registrant of a vehicle which is proportionally registered under ORS 826.009 or 826.011 shall be permitted to transfer the registration plates from the vehicle to a like vehicle to be similarly used if the vehicle is destroyed

or permanently withdrawn from service within this state. To make a transfer of registration under this section, the registrant of the vehicle shall pay the Department of Transportation a registration transfer fee established under ORS 826.023, file a written statement indicating the withdrawal or destruction with the department and surrender the registration card for the vehicle. The department shall issue a registration card without payment of further fee. If the weight on the certificate of weight of the vehicle receiving the transferred registration exceeds that of the vehicle destroyed or withdrawn, the registrant must pay registration fees on the increased weight.

(2) If a vehicle is permanently withdrawn from a fleet that is proportionally registered under ORS 826.009 or 826.011 because it has been destroyed, sold or otherwise completely removed from the service of the registrant, the department shall provide credit for the unused portion of the fees paid according to terms of interstate agreements or in a manner defined by rule. In no event shall any such amount be subject to refund. [Formerly 768.025]

826.029 Temporary proportional registration permits. The Department of Transportation may issue temporary proportional registration permits to qualifying persons pending registration of vehicles under proportional registration under ORS 826.009 or proportional fleet registration under ORS 826.011 and issuance of appropriate identification devices. [Formerly 768.027]

826.031 Registration for certain vehicles subject to weight mile tax and not otherwise registered. (1) The owner of a vehicle that is subject to the tax imposed under ORS 825.474 and that is not registered under the proportional registration provisions of this chapter and is not registered in any other jurisdiction shall register the vehicle with the Department of Transportation if the vehicle is to be operated in this state. Registration under this section is in lieu of registration under ORS chapter 803.

(2) The department shall determine the form of application for registration and renewal of registration and may require any information that it determines necessary to facilitate the registration process.

(3) A vehicle registered under this section is subject to the insurance requirements of ORS 825.160 and not to the financial responsibility requirements of ORS chapter 806. Proof of compliance with financial responsibility requirements as specified in ORS 803.460 is not required for renewal of registration of a vehicle under this section.

(4) A vehicle registered under this section shall be deemed to be fully registered in this state for any type of movement or operation, except that in those instances in which a grant of authority is required for intrastate movement or operation, no such vehicle shall be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or right by the department and unless the vehicle is being operated in conformity with such authority and rights.

(5) A vehicle may be registered under this section prior to a certificate of title being issued for the vehicle but nothing in this section affects any requirement that a certificate of title be issued. [Formerly 768.029; 1997 c.249 §269; 2019 c.312 §15]

826.033 Application of other registration provisions of Oregon Vehicle Code to vehicles registered under this chapter. The provisions of ORS chapter 803 concerning the registration of vehicles apply to vehicles registered under this chapter, unless a specific provision of this chapter differs from a comparable provision of ORS chapter 803. [Formerly 768.031]

826.035 Registration identification devices and cards for vehicles registered under ORS 826.031. (1) The Department of Transportation may issue appropriate registration, stickers, plates or other suitable identification devices the department considers convenient for vehicles registered under ORS 826.031. The fees for such stickers or plates are as provided in ORS 826.023.

(2) Registration cards may be issued for vehicles registered under ORS 826.031. Registration cards issued for the vehicles shall be carried on the vehicle at all times. [Formerly 768.033]

826.037 Annual or quarterly registration under ORS 826.031. (1) Vehicles registered under ORS 826.031 may be registered under staggered registration.

(2) For purposes of this section, staggered registration starts on the first day of any calendar quarter and runs through the last day of the last calendar quarter in the registration period. The number of calendar quarters in a registration period is elected by the vehicle owner at the time of registration except that a person may not establish a staggered registration period of more than four quarters.

(3) The Department of Transportation may allow a carrier registered under ORS 826.031 to operate on expired registration plates and registration for up to one extra quarter if the renewal application has been submitted and the required fees for registration have been paid on or before the last day of the registration period for the vehicles. The extension of time allowed by this sub-

section shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.

(4) Nothing in this section requires the department to issue registration plates that are valid for less than a one-year period. An election by a carrier to operate in nonconsecutive quarters of a four-quarter period does not by itself require the carrier to renew registration plates. [Formerly 768.035]

826.039 Refund of certain registration fees. (1) The Department of Transportation shall grant a refund of that portion of the registration fee applicable to the unexpired portion of the registration period for a vehicle described in ORS 826.031 if the vehicle is sold and:

(a) The seller is an individual and does not intend to remain in, or within one year to reenter, business as a motor carrier;

(b) Neither the selling person if an individual nor substantially the same group of persons if a group intends to register, or within one year of the date of sale registers, an assumed business name under the provisions of ORS chapter 648 for the purpose of doing business as a motor carrier; or

(c) Neither the selling person if an individual nor substantially the same group of persons if a group intends to organize, or within one year from the date of sale organizes, as a corporation under the provisions of ORS chapter 60 for the purpose of doing business as a motor carrier.

(2) If the department grants a refund to a person or entity that attempts to reenter business as a motor carrier within one year of the date of the sale that led to the refund, the department may refuse to issue authority to the person or entity until the amount of the refund has been repaid. [Formerly 768.037]

826.041 Agents for issuance of registration and collection of fees. The Department of Transportation may appoint agents to issue registration and to collect any fees required by this chapter. The department shall prescribe the duties and compensation of such agents and may require them to give bonds, in such amount as the department determines appropriate, conditioned upon the faithful performance of their duties. [Formerly 768.039]

TITLE 60

CHAPTERS 827 TO 829

[Reserved for expansion]

Related Laws

Chapter 153

2019 EDITION

Violations and Fines

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VIOLATIONS

(Generally)

153.005 Definitions. As used in this chapter:

(1) "Enforcement officer" means:

(a) A member of the Oregon State Police.

(b) A sheriff or deputy sheriff.

(c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

(d) A police officer commissioned by a university under ORS 352.121 or 353.125.

(e) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(f) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon.

(g) A Port of Portland peace officer.

(h) A humane special agent as defined in ORS 181A.345.

(i) A regulatory specialist exercising authority described in ORS 471.775 (2).

(j) An authorized tribal police officer as defined in ORS 181A.680.

(k) Any other person specifically authorized by law to issue citations for the commission of violations.

(2) "Traffic offense" has the meaning given that term in ORS 801.555.

(3) "Violation" means an offense described in ORS 153.008.

(4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that charges a person with commission of a violation. [1999 c.1051 §2; 2007 c.71 §44; 2009 c.299 §3; 2011 c.506 §20; 2011 c.644 §§22,45; 2012 c.54 §§14,15; 2012 c.67 §§7,8; 2013 c.180 §21,22; 2015 c.174 §10; 2015 c.614 §§145,146]

153.008 Violations described. (1) Except as provided in subsection (2) of this section, an offense is a violation if any of the following apply:

(a) The offense is designated as a violation in the statute defining the offense.

(b) The statute prescribing the penalty for the offense provides that the offense is punishable by a fine but does not provide that the offense is punishable by a term of imprisonment. The statute may provide for punishment in addition to a fine as long as the punishment does not include a term of imprisonment.

(c) The offense is created by an ordinance of a county, city, district or other political subdivision of this state with authority to create offenses, and the ordinance provides that violation of the ordinance is punishable by a fine but does not provide that the offense is punishable by a term of imprisonment. The ordinance may provide for punishment in addition to a fine as long as the punishment does not include a term of imprisonment.

(d) The prosecuting attorney has elected to treat the offense as a violation for purposes of a particular case in the manner provided by ORS 161.566.

(e) The court has elected to treat the offense as a violation for purposes of a particular case in the manner provided by ORS 161.568.

(2) Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime. [1999 c.1051 §3]

153.012 Violation categories. Violations are classified for the purpose of sentencing into the following categories:

(1) Class A violations;

(2) Class B violations;

(3) Class C violations;

(4) Class D violations;

(5) Unclassified violations as described in ORS 153.015; and

(6) Specific fine violations as described in ORS 153.015. [1999 c.1051 §4]

153.015 Unclassified and specific fine violations. (1) An offense described in the Oregon Revised Statutes that is designated as a violation but does not specify the classification of the violation is an unclassified violation. An unclassified violation is a Class B violation.

(2) A specific fine violation is any offense described in the Oregon Revised Statutes that is designated as a specific fine violation or:

(a) Is not designated as a crime or as a class A, B, C or D violation;

(b) Is not punishable by a term of imprisonment as a penalty for committing the offense; and

(c) Is punishable by a specific fine as the penalty for committing the offense. [1999 c.1051 §5; 2011 c.597 §6a]

153.018 Maximum fines. (1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:

(a) $2,000 for a Class A violation.

(b) $1,000 for a Class B violation.

(c) $500 for a Class C violation.

(d) $250 for a Class D violation.

(e) $2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.

(3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:

(a) $4,000 for a Class A violation.

(b) $2,000 for a Class B violation.

(c) $1,000 for a Class C violation.

(d) $500 for a Class D violation. [1999 c.1051 §6; 2003 c.737 §103; 2011 c.597 §7]

153.019 Presumptive fines; generally. (1) Except as provided in ORS 153.020, the presumptive fines for violations are:

(a) $440 for a Class A violation.

(b) $265 for a Class B violation.

(c) $165 for a Class C violation.

(d) $115 for a Class D violation.

(2) The presumptive fine for a specific fine violation is:

(a) The amount specified by statute as the presumptive fine for the violation; or

(b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the violation, or the minimum fine prescribed by statute for the violation.

(3) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine. [2011 c.597 §2; 2016 c.78 §3; 2017 c.712 §1]

153.020 Presumptive fines; highway work zones, school zones and safety corridors. (1) If a person is charged with a traffic violation, as defined in ORS 801.557, and the enforcement officer issuing the citation notes on the citation that the offense occurred in a highway work zone and is subject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions of ORS 811.483 or section 2, chapter 501, Oregon Laws 2019, the presumptive fine for the violation is:

(a) $875 for a Class A violation.

(b) $525 for a Class B violation.

(c) $325 for a Class C violation.

(d) $225 for a Class D violation.

(2) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine. [2011 c.597 §3; 2012 c.89 §10; 2016 c.78 §4; 2017 c.712 §2; 2019 c.501 §3]

Note: The amendments to 153.020 by section 4, chapter 501, Oregon Laws 2019, become operative January 2, 2026. See section 5, chapter 501, Oregon Laws 2019. The text that is operative on and after January 2, 2026, is set forth for the user's convenience.

153.020. (1) If a person is charged with a traffic violation, as defined in ORS 801.557, and the enforcement officer issuing the citation notes on the citation that the offense occurred in a highway work zone and is subject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions of ORS 811.483, the presumptive fine for the violation is:

(a) $875 for a Class A violation.

(b) $525 for a Class B violation.

(c) $325 for a Class C violation.

(d) $225 for a Class D violation.

(2) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine.

153.021 Minimum fines; audit of court. (1) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a violation that is subject to the presumptive fines established by ORS 153.019 (1) or 153.020 to an amount that is less than:

(a) $225 for a Class A violation.

(b) $135 for a Class B violation.

(c) $85 for a Class C violation.

(d) $65 for a Class D violation.

(2) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a specific fine violation to an amount that is less than 20 percent of the presumptive fine for the violation.

(3) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.

(4) The Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of this section. In addition, the Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Department of Revenue or Secretary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section and of ORS 137.145 to 137.159 and 153.640 to 153.680. [2011 c.597 §4; 2012 c.89 §11; 2017 c.712 §3]

153.022 Authority of agency to specify rule violation as particular level of violation. If a statute provides that violation of the rules of an agency constitutes an offense, as described in ORS 161.505, the agency may by rule specify that violation of a specific rule of the agency is subject to a specific

fine, or a specific maximum fine, that is less in amount than the maximum fine for the offense specified by the statute. In addition, the agency may specify that violation of the specific rule is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class specified in the rule is lower than the statutory classification for the offense. [1999 c.1051 §76]

153.025 Authority of political subdivision to specify ordinance violation as particular level of violation. (1) If a statute provides that violation of the ordinances of a political subdivision of this state constitutes an offense, as described in ORS 161.505, the political subdivision may by ordinance specify that violation of a specific ordinance of the political subdivision is subject to a specific fine, or a specific maximum fine, that is less in amount than the maximum fine for the offense specified by the statute. In addition, the political subdivision may specify that violation of the specific ordinance is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class specified in the ordinance is lower than the statutory classification for the offense.

(2) Nothing in this section requires a political subdivision to use the classifications established by ORS 153.012 or to use the presumptive fines established under ORS 153.019 and 153.020 for violations of ordinances adopted by the political subdivision. [1999 c.1051 §78; 2011 c.597 §111]

(Procedures)

153.030 Applicability; statute of limitations. (1) The procedures provided for in this chapter apply to violations described in ORS 153.008. Except as specifically provided in this chapter, the criminal procedure laws of this state applicable to crimes also apply to violations.

(2) Notwithstanding subsection (1) of this section, ORS 153.633 and all other provisions of this chapter and of the criminal procedure laws of this state do not apply to violations that govern the parking of vehicles and that are created by ordinance or by agency rule.

(3) The statute of limitations for proceedings under this chapter is as provided in ORS 131.125.

(4) This chapter does not affect the ability of a city described in ORS 3.136 (1) to engage in the activities described in ORS 3.136 (3). Nothing in this chapter affects the ability of any other political subdivision of this state to provide for the administrative enforcement of the charter, ordinances, rules and regulations of the political subdivision, including enforcement through imposition of monetary penalties. Except for ordinances governing the parking of vehicles, administrative enforcement as described in this subsection may not be used for any prohibition designated as an offense.

(5) Nothing in this chapter affects the ability of any political subdivision of this state to establish rules relating to administrative enforcement as described in subsection (4) of this section, including rules providing for the use of citations or other procedures for initiating administrative enforcement proceedings.

(6) Nothing in this chapter affects the ability of any political subdivision of this state to conduct hearings for administrative enforcement as described in subsection (4) of this section, either before a hearing officer or before the governing body of the political subdivision.

(7) Nothing in this chapter affects the ability of any political subdivision to bring a civil action to enforce the charter, ordinances, rules and regulations of the political subdivision, or to bring a civil action to enforce any order for administrative enforcement as described in subsection (4) of this section.

(8) Nothing in ORS 153.042 affects the authority of any political subdivision of this state to provide for issuance of citations for violation of offenses created by ordinance on the same basis as the political subdivision could under the law in effect immediately before January 1, 2000. [1999 c.1051 §7; 2011 c.597 §111a; 2012 c.89 §3]

153.033 Rules of procedure. The Supreme Court may adopt rules for the conduct of violation proceedings. Rules adopted by the Supreme Court under this section must be consistent with the provisions of this chapter. Rules adopted under this section supersede any local rule of a state court to the extent the local rule is inconsistent with the rule adopted by the Supreme Court. All city ordinances and municipal court rules must conform to any rules adopted by the Supreme Court under this section. [1999 c.1051 §8]

153.036 Venue. (1) A violation proceeding may be commenced in:

(a) The county in which the violation was committed; or

(b) Any other county whose county seat is a shorter distance by road from the place where the violation was committed than is the county seat of the county in which the violation was committed.

(2)(a) If a violation proceeding is commenced in the county in which the violation was committed, the proceeding may be commenced in a circuit or justice court of the

county or, if the violation was committed within a city, in the municipal court.

(b) If a violation proceeding is commenced in a county other than the county in which the violation was committed, the proceeding may be commenced:

(A) In a circuit court;

(B) Notwithstanding the provisions of ORS 51.050 that limit the jurisdiction of justice courts to offenses committed within the county, in a justice court; or

(C) If the violation was committed within a city, in the municipal court of the city.

(3) A Central Violations Bureau established under ORS 153.806 may conduct violation proceedings for a violation commenced in circuit court notwithstanding the county in which the proceeding is commenced.

(4)(a) Except as otherwise provided in paragraph (b) of this subsection, if a violation proceeding is commenced in a county other than the county in which the violation was committed, at the request of the defendant the place of trial may be changed to the county in which the violation was committed. A request for a change of the place of trial shall be made prior to the date set for the trial and shall be governed by the provisions of ORS 131.305 to 131.415 relating to change of venue.

(b) A defendant may not request that the place of trial be changed if the violation was committed within a city and the proceeding is commenced in the municipal court of the city.

(5) Except as specifically provided in this section, venue in violation proceedings in circuit courts is governed by ORS 131.305 to 131.415. [1999 c.1051 §12; 1999 c.1051 §12a; 2003 c.528 §1; 2019 c.60 §3]

153.039 Stop and detention for violation. (1) An enforcement officer may not arrest, stop or detain a person for the commission of a violation except to the extent provided in this section and ORS 810.410.

(2) An enforcement officer may stop and detain any person if the officer has reasonable grounds to believe that the person has committed a violation. An enforcement officer may stop and detain any employee, agent or representative of a firm, corporation or other organization if the officer has reasonable grounds to believe that the firm, corporation or other organization has committed a violation.

(3) Except as provided in subsection (4) of this section, the period of detention may be only as long as is necessary to:

(a) Establish the identity of the person, firm, corporation or organization believed to have committed the violation;

(b) Conduct any investigation reasonably related to the violation; and

(c) Issue a citation for the violation.

(4) The authority of an enforcement officer to stop and detain a person for a traffic violation as defined by ORS 801.557 is governed by ORS 810.410. [1999 c.1051 §10]

153.042 Citations; issuance. (1) Except as provided in ORS 810.410 for issuance of a citation based on a traffic violation, as that term is defined in ORS 801.557, or as otherwise specifically provided by law, an enforcement officer may issue a violation citation only if the conduct alleged to constitute a violation takes place in the presence of the enforcement officer and the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation.

(2) If the person receiving the citation is a firm, corporation or other organization, the citation may be issued to an employee, agent or representative of the firm, corporation or organization. [1999 c.1051 §9]

153.045 Citation; requirements. (1) Except as provided in subsection (5) of this section, a citation conforming to the requirements of this section must be used by enforcement officers for all violations. The citation may contain other language in addition to the language specified in this section.

(2) Uniform citation forms for violations shall be adopted by the Supreme Court under ORS 1.525. In adopting those forms, the Supreme Court may combine the requirements for violation citations under this section and the requirements for criminal citations under ORS 133.066. More than one violation may be charged on a single citation form, but a crime and a violation may not be charged on the same citation form.

(3) A violation citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

(a) A complaint in the form prescribed by ORS 153.048.

(b) The abstract of court record.

(c) The police record.

(d) A summons in the form prescribed by ORS 153.051.

(4) Each of the parts shall contain the information or blanks required by rules of the Supreme Court under ORS 1.525.

(5) The complaint shall contain a form of certificate in which the enforcement officer must certify, under the penalties provided in ORS 153.990, that the enforcement officer has sufficient grounds to believe, and does believe, that the person named in the com-

plaint committed the violation specified in the complaint. A certificate conforming to this subsection shall be deemed equivalent of a sworn complaint. [1999 c.1051 §13; 2005 c.566 §2]

153.048 Complaint; requirements. (1) The complaint in a violation citation must contain at least the following:

(a) The name of the court, the name of the state or of the city or other public body in whose name the action is brought and the name of the defendant.

(b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have been committed.

(c) A certificate under ORS 153.045 (5) signed by the enforcement officer.

(2) If the complaint does not conform to the requirements of this section, the court shall set the complaint aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(3) A court may amend a complaint in its discretion. [1999 c.1051 §14]

153.051 Summons; requirements. A summons in a violation citation is sufficient if it contains the following:

(1) The name of the court, the name of the person cited, the date on which the citation was issued, the name of the enforcement officer issuing the citation, and the time and place at which the person cited is to appear in court.

(2) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have been committed.

(3) A notice to the person cited that a complaint will be filed with the court based on the violation.

(4) The amount of the presumptive fine, if any, fixed for the violation.

(5) A statement notifying the person that a monetary judgment may be entered against the person for up to the maximum amount of fines, restitution and other costs allowed by law for the violation if the person fails to make all required appearances at the proceedings.

(6) A statement notifying the person that, if the person pleads no contest and delivers to the court the amount of the presumptive fine indicated on the citation, and the court accepts the plea, the amount of the fine imposed against the defendant may not exceed the amount of the presumptive fine indicated on the citation.

(7) A statement notifying the person that, if the person pleads no contest and delivers to the court the amount of the presumptive fine indicated on the citation:

(a) The person may submit an explanation of the circumstances of the violation; and

(b) The court may consider the explanation in establishing the amount of the fine, but in no event can the court impose a fine that is less than the minimum fine established under ORS 153.021.

(8) A statement notifying the person that, if the person pleads not guilty and requests a trial, the court cannot impose a fine that is less than the minimum fine established under ORS 153.021 unless the person is found not guilty, in which case no fine will be imposed. [1999 c.1051 §15; 2011 c.597 §23]

153.054 Service and filing. Except as provided in ORS 267.153, 810.439, 811.590, 811.615 or 811.617 or other law, an enforcement officer issuing a violation citation shall cause the summons to be delivered to the person cited and shall cause the complaint and abstract of court record to be delivered to the court. [1999 c.1051 §16; 2017 c.427 §4]

153.058 Initiation of violation proceeding by private party. (1) A person other than an enforcement officer may commence a violation proceeding by filing a complaint with a court that has jurisdiction over the alleged violation. The filing of the complaint is subject to ORS 153.048. The complaint shall be entered by the court in the court record.

(2) A complaint under this section must contain:

(a) The name of the court, the name and address of the person bringing the action and the name and address of the defendant.

(b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have occurred.

(c) A certificate signed by the complainant stating that the complainant believes that the named defendant committed the violation specifically identified in the complaint and that the complainant has reasonable grounds for that belief. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. Complaints filed under this section are subject to the penalties provided in ORS 153.990.

(3) Upon the filing of a complaint under this section, the court shall cause a summons to be delivered to the defendant and shall

deliver a copy of the complaint to the district attorney for the county in which the complaint is filed. The court may require any enforcement officer to serve the summons.

(4) If the complaint does not conform to the requirements of this section, the court shall set it aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(5) A court may, acting in its sole discretion, amend a complaint filed under the provisions of this section.

(6) A court shall dismiss a complaint filed under this section upon the motion of the district attorney for the county or of the city attorney for a city if:

(a) The district attorney or city attorney has brought a proceeding against the defendant named in the complaint or intends to bring a proceeding against the defendant named in the complaint; and

(b) The proceeding is brought by the district attorney or city attorney by reason of the same conduct alleged in the complaint.

(7) Any political subdivision of this state may require by ordinance that violation proceedings for the purpose of enforcing the charter or ordinances of the political subdivision may not be commenced in the manner provided by this section and that those proceedings may be commenced only by enforcement officers.

(8) A person other than an enforcement officer may commence a violation proceeding under this section only for:

(a) Boating violations under ORS chapter 830, or any violation of rules adopted pursuant to ORS chapter 830 if the violation constitutes an offense;

(b) Traffic violations under ORS chapters 801 to 826, or any violation of rules adopted pursuant to those chapters if the violation constitutes an offense;

(c) Violations under the wildlife laws, as described in ORS 496.002, or any violation of rules adopted pursuant to those laws if the violation constitutes an offense;

(d) Violations under the commercial fishing laws, as described in ORS 506.001, or any violation of rules adopted pursuant to those laws if the violation constitutes an offense; or

(e) Violations of ORS 618.121 to 618.161, and violation of rules adopted pursuant to those laws if the violation constitutes an offense. [1999 c.1051 §11]

153.061 Appearance by defendant. (1) Except as provided in subsection (2) of this section, a defendant who has been issued a violation citation must either:

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

(b) Make a first appearance in the manner provided in subsection (3) of this section before the time indicated in the summons.

(2) If a defendant is issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that the offense contributed to an accident and that the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way, the officer may not enter the amount of the presumptive fine on the summons and the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

(3)(a) Except as provided in this section, a defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

(A) The defendant may submit to the court a written or oral request for a trial.

(B) The defendant may enter a plea of no contest by:

(i) Delivering to the court or a Central Violations Bureau established under ORS 153.806 the summons and a check or money order in the amount of the presumptive fine set forth in the summons; or

(ii) Appearing by electronic or telephonic means and entering the plea with a Central Violations Bureau established under ORS 153.806.

(b) The entry of a plea under paragraph (a)(B) of this subsection constitutes a waiver of trial and consent to the entry of a judgment forfeiting the presumptive fine.

(c) A no contest plea under this subsection is not subject to the requirements of ORS chapter 135 relating to the entry of pleas and, upon receipt of the plea, the court may enter judgment against the defendant without taking further evidence.

(4) The court may require that a defendant requesting a trial under subsection (3) of this section deposit an amount equal to the presumptive fine established under ORS 153.019 and 153.020 or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount specified by the court, the defendant must personally appear in court at the time indicated in the summons. The amount deposited by the defendant may be applied against any

fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

(5) The court may require a defendant to appear personally in any case, or may require that all defendants appear in specified categories of cases.

(6) If a defendant has entered a no contest plea in the manner provided in subsection (3) of this section, and the court determines that the presumptive fine is not adequate by reason of previous convictions of the defendant, the nature of the offense charged or other circumstances, the court may require that a trial be held unless an additional fine amount is paid by the defendant before a specified date. Notice of an additional fine amount under this subsection may be given to the defendant by mail. In no event may the court require a total fine amount in excess of the maximum fine established for the violation by statute.

(7) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails to appear at any other subsequent time set for trial or other appearance, the driving privileges of the defendant are subject to suspension under ORS 809.220. [1999 c.1051 §17; 2001 c.817 §2; 2007 c.784 §5; 2011 c.597 §§25,313; 2012 c.89 §4; 2019 c.60 §4]

153.064 Warrant for arrest upon failure to appear. (1) Except as provided in subsection (2) of this section, a warrant for arrest may be issued against a person who fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, only if the person is charged with failure to appear in a violation proceeding under ORS 153.992.

(2) If a person fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, the court may issue an order that requires the defendant to appear and show cause why the defendant should not be held in contempt. The show cause order may be mailed to the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the defendant must be personally served. If the defendant is served and fails to appear at the time specified in the show cause order, the court may issue an arrest warrant for the defendant for the purpose of bringing the defendant before the court. [1999 c.1051 §18]

(Trial)

153.070 When trial required. The court may require that a trial be held in any violation proceeding. If the defendant requests a trial under ORS 153.061, or a trial is required by the court or by law, the court shall set a date, time and place for the trial. [1999 c.1051 §19; 2001 c.19 §2; 2003 c.518 §1]

153.073 Time and place. Unless notice is waived by the defendant, the court shall mail or otherwise provide to the defendant notice of the date, time and place at least five days before the date set for trial under ORS 153.070. If the citation is for a traffic violation, or is for a violation of ORS 471.430, the notice must contain a warning to the defendant that if the defendant fails to appear at the trial, the driving privileges of the defendant are subject to suspension under ORS 809.220. [1999 c.1051 §20; 2001 c.817 §3; 2003 c.518 §1a]

153.076 Conduct of trial. (1) Violation proceedings shall be tried to the court sitting without jury. The trial in a violation proceeding may not be scheduled fewer than seven days after the date that the citation is issued unless the defendant waives the seven-day period.

(2) The state, municipality or political subdivision shall have the burden of proving the charged violation by a preponderance of the evidence.

(3) The pretrial discovery rules in ORS 135.805 to 135.873 apply in violation proceedings.

(4) The defendant may not be required to be a witness in the trial of any violation.

(5) Defense counsel shall not be provided at public expense in any proceeding in which only violations are charged.

(6) A district attorney or city attorney may aid in preparing evidence and obtaining witnesses but, except upon good cause shown to the court, shall not appear in violation proceedings unless counsel for the defendant appears. The court shall ensure that the district attorney or city attorney is given timely notice if defense counsel is to appear at trial. [1999 c.1051 §21]

153.080 Testimony by affidavit or declaration. (1) Notwithstanding any other provision of law, the court may admit as evidence in any trial in a violation proceeding the affidavit or declaration of a witness in lieu of taking the testimony of the witness orally and in court. The authority granted under this section is subject to all of the following:

(a) Testimony may not be presented by affidavit or declaration under the provisions of this section unless the court has adopted

rules providing procedures for the introduction and use of testimony by affidavit or declaration.

(b) The court shall allow testimony by affidavit or declaration under this section only upon receiving a signed statement from the defendant waiving the right to have the testimony presented orally in court.

(c) Testimony by affidavit or declaration under this section is not subject to objection as hearsay.

(d) A statement signed by the defendant under paragraph (b) of this subsection does not constitute a waiver of trial unless the affidavit or declaration specifically so provides.

(e) Nothing in this section requires that the defendant or any other witness waive the right to appear if other testimony is introduced by affidavit or declaration as provided in this section.

(2) As used in this section, "declaration" means a declaration under penalty of perjury in the form required by ORCP 1 E. [1999 c.1051 §22; 2015 c.121 §2]

153.083 Role of peace officer. Notwithstanding ORS 9.160 and 9.320, in any trial of a violation, whether created by ordinance or statute, in which a city attorney or district attorney does not appear, the peace officer who issued the citation for the offense may present evidence, examine and cross-examine witnesses and make arguments relating to:

(1) The application of statutes and rules to the facts in the case;

(2) The literal meaning of the statutes or rules at issue in the case;

(3) The admissibility of evidence; and

(4) Proper procedures to be used in the trial. [1999 c.805 §1; 1999 c.805 §2; 2003 c.305 §1]

Note: 153.083 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Judgment)

153.090 Provisions of judgment. (1) Judgments entered under this chapter may include:

(a) Imposition of a sentence to pay a fine;

(b) Costs and restitution authorized by law;

(c) A requirement that the fine, costs and restitution, if any, be paid out of the presumptive fine;

(d) Remission of any balance of a presumptive fine to the defendant; and

(e) Any other provision authorized by law.

(2) Notwithstanding ORS 137.106, if the court orders restitution in a default judgment entered under ORS 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions imposed, including restitution, and request a hearing to determine whether the defendant is unable to pay or to establish a payment schedule by filing a written request with the court within one year after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability to pay upon receipt of the request and shall give notice to the district attorney. The district attorney shall give notice to the victim of the date, time and place of the hearing. The court may determine a payment schedule for monetary sanctions imposed, including restitution ordered under this subsection, if the defendant establishes at the hearing that the defendant is unable to pay the ordered restitution in full.

(3) If a trial is held in a violation proceeding, or a default judgment is entered against the defendant under ORS 153.102, the court may impose any fine within the statutory limits for the violation. If a defendant pleads no contest under ORS 153.061 (3) and the court accepts the plea and enters judgment against the defendant, the amount of the fine imposed against the defendant by the court may not exceed the presumptive fine established for the violation under ORS 153.019 and 153.020.

(4) A judge may suspend operation of any part of a judgment entered under this chapter upon condition that the defendant pay the nonsuspended portion of a fine within a specified period of time. If the defendant fails to pay the nonsuspended portion of the fine within the specified period of time, the suspended portion of the judgment becomes operative without further proceedings by the court and the suspended portion of the fine becomes immediately due and payable.

(5) The court may not issue notice to the Department of Transportation to suspend the defendant's driving privileges unless a trial has been required. The failure of the defendant to appear at the trial does not prevent the court from issuing notice to the department to suspend the defendant's driving privileges.

(6) Entry of a default judgment under ORS 153.102 does not preclude the arrest and prosecution of the defendant for the crime of failure to appear in a violation proceeding under ORS 153.992.

(7) If a person held commercial driving privileges as described in ORS 807.018 at the time the offense was committed, a court may not defer entry of a judgment or allow an individual to enter into a diversion program that would prevent a conviction for a traffic

offense from appearing on the driving record of the holder. This subsection applies to all traffic offenses, whether committed while driving a motor vehicle or a commercial motor vehicle, but does not apply to parking violations. [1999 c.1051 §25; 2003 c.670 §3; 2005 c.649 §30; 2007 c.122 §12; 2007 c.784 §7; 2009 c.395 §4; 2011 c.355 §18; 2011 c.597 §27; 2012 c.89 §5; 2013 c.237 §30]

153.093 [1999 c.1095 §3; 1999 c.1095 §5; 2003 c.14 §61; 2003 c.737 §104; repealed by 2011 c.597 §5]

153.096 Suspension of fine in certain cases. (1) In any proceeding for a violation under ORS 830.990 or 830.997, the court may conditionally suspend all or part of any fine or penalty to be imposed on the defendant if the defendant appears personally and agrees to complete at the defendant's own expense a Safe Boating Education Course approved by the State Marine Board under ORS 830.110 (18), within time limits imposed by the court.

(2) In any proceeding for a violation under ORS 830.990 or 830.997, the court shall notify the State Marine Board if the defendant fails to appear at any time as required by law or the court, or fails to comply with any order of the court. [1999 c.1051 §96b]

153.099 Entry; nondefault cases. (1) If a trial is held in a violation proceeding, the court shall enter a judgment based on the evidence presented at the trial.

(2) If the defendant appears and enters a plea of no contest in the manner described in ORS 153.061 (3) and a trial is not otherwise required by the court or by law, the court shall make a decision based on the citation. The court may consider any statement of explanation submitted with the plea. [1999 c.1051 §23; 2007 c.784 §8; 2011 c.597 §25a; 2012 c.89 §6]

153.102 Entry; default cases. (1) If the defendant in a violation proceeding does not make a first appearance in the manner required by ORS 153.061 within the time allowed, and a trial is not otherwise required by the court or by law, the court may enter a default judgment based on the complaint and any other evidence the judge determines appropriate.

(2) If the defendant makes a first appearance in the manner required by ORS 153.061 within the time allowed and requests a trial, and the defendant subsequently fails to appear at the date, time and place set for any trial or other appearance in the matter, and if a trial is not otherwise required by the court or by law, the court shall enter a judgment based on the complaint and any other evidence the judge determines appropriate. [1999 c.1051 §24]

153.105 Relief from default judgment. If a default judgment is entered against a defendant under ORS 153.102, the court may relieve a defendant from the judgment upon a showing that the failure of the defendant to appear was due to mistake, inadvertence, surprise or excusable neglect. A motion for relief under this section must be made by the defendant within a reasonable time, and in no event may a motion under this section be made more than one year after entry of judgment. [1999 c.1051 §26]

153.108 Effect of judgment. (1) Notwithstanding ORS 131.505 to 131.535, if a person commits both a crime and a violation as part of the same criminal episode, the prosecution for one offense shall not bar the subsequent prosecution for the other. However, evidence of the first conviction shall not be admissible in any subsequent prosecution for the other offense.

(2) Notwithstanding ORS 43.130 and 43.160, a plea, finding or judgment in a violation proceeding, or the fact that a violation proceeding has been brought against a defendant, may not be used for the purpose of res judicata or collateral estoppel, or be admitted as evidence in any civil proceeding. [1999 c.1051 §27; 2011 c.597 §29]

153.110 [1981 c.692 §11; repealed by 1999 c.1051 §32]

153.111 Distribution of abstracts of convictions. (1) Upon entry of a conviction for a traffic offense, the court shall forward to the Department of Transportation an abstract of conviction in the manner required by ORS 810.375, and a copy of the judgment, if required, under the provisions of ORS 810.375.

(2) Upon entry of a conviction for violation of any provision of the wildlife laws or commercial fishing laws, or any rule promulgated pursuant to those laws, the court that enters the judgment of conviction shall forward to the Department of State Police an abstract of conviction.

(3) Upon entry of a conviction for a compulsory school attendance violation under ORS 339.095, the court shall forward to the Department of Education an abstract of conviction.

(4) Upon entry of a conviction for violation of a weights and measures law subject to penalty under ORS 618.991, the court shall forward to the State Department of Agriculture an abstract of conviction.

(5) Upon entry of a conviction of a boating offense, as defined in ORS 830.005, the court shall forward to the State Marine Board an abstract of conviction.

(6) A court may destroy any abstract not required to be forwarded to an agency under the provisions of this section. [1999 c.1051 §51]

153.120 [1981 c.692 §12; repealed by 1999 c.1051 §32]

(Appeal)

153.121 Appeal. An appeal from a judgment in a violation proceeding may be taken by either party as follows:

(1) From a proceeding in justice court or municipal court, as provided in ORS 138.057 for appeals of violations.

(2) From a proceeding in circuit court, as provided in ORS chapter 19, except that the standard of review is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony. [1999 c.1051 §28; 2005 c.266 §1]

153.125 [1999 c.1051 §35; 2003 c.737 §105; 2009 c.659 §§2a,2c; repealed by 2011 c.597 §5]

153.128 [1999 c.1051 §36; repealed by 2011 c.597 §5]

153.130 [1981 c.692 §13; 1999 c.59 §29; repealed by 1999 c.1051 §32]

153.131 [1999 c.1051 §37; 1999 c.1071 §§5c,5d; 2007 c.124 §2; repealed by 2011 c.597 §5]

153.134 [1999 c.1051 §38; repealed by 2011 c.597 §5]

153.138 [1999 c.1051 §39; repealed by 2011 c.597 §5]

153.140 [1981 c.692 §15; repealed by 1999 c.1051 §32]

153.142 [1999 c.1051 §34; repealed by 2011 c.597 §5]

153.145 [1999 c.1051 §38a; repealed by 2011 c.597 §5]

153.150 [1981 c.692 §16; repealed by 1999 c.1051 §32]

153.160 [1981 c.692 §17; repealed by 1999 c.1051 §32]

153.170 [1981 c.692 §18; repealed by 1999 c.1051 §32]

153.180 [1981 c.692 §19; repealed by 1999 c.1051 §32]

153.190 [1981 c.692 §20; 1985 c.272 §1; 1991 c.824 §3; 1995 c.292 §3; repealed by 1999 c.1051 §32]

153.200 [1981 c.692 §21; repealed by 1999 c.1051 §32]

153.210 [1981 c.692 §22; 1985 c.725 §10; repealed by 1999 c.1051 §32]

153.220 [1981 c.692 §23; 1995 c.658 §80; repealed by 1999 c.1051 §32]

153.230 [1981 c.692 §24; repealed by 1999 c.1051 §32]

153.240 [1981 c.692 §25; repealed by 1999 c.1051 §32]

153.250 [1981 c.692 §26; repealed by 1999 c.1051 §32]

153.260 [1981 c.692 §27; repealed by 1999 c.1051 §32]

153.270 [1981 c.692 §8; repealed by 1999 c.1051 §32]

153.280 [1981 c.692 §28; 1985 c.342 §21; 1995 c.658 §81; 1997 c.389 §13; repealed by 1999 c.1051 §32]

153.290 [1981 c.692 §29; repealed by 1995 c.292 §8]

153.300 [1981 c.692 §30; repealed by 1995 c.292 §8]

153.310 [1981 c.692 §9; 1993 c.531 §4; repealed by 1999 c.1051 §32]

153.325 [1981 c.626 §5; repealed by 1999 c.1051 §32]

153.330 [Formerly 488.210; repealed by 1999 c.1051 §32]

153.335 [Formerly 488.220; repealed by 1999 c.1051 §32]

153.340 [Formerly 488.230; repealed by 1999 c.1051 §32]

153.345 [Formerly 488.240; repealed by 1999 c.1051 §32]

153.350 [Formerly 488.250; repealed by 1999 c.1051 §32]

153.355 [Formerly 488.260; repealed by 1999 c.1051 §32]

153.360 [Formerly 488.270; repealed by 1999 c.1051 §32]

153.365 [Formerly 488.280; repealed by 1999 c.1051 §32]

153.370 [Formerly 488.290; 1985 c.272 §2; 1991 c.931 §§2,2a; 1995 c.292 §4; repealed by 1999 c.1051 §32]

153.375 [Formerly 488.300; repealed by 1999 c.1051 §32]

153.380 [1981 c.626 §6; 1985 c.725 §11; repealed by 1999 c.1051 §32]

153.385 [1981 c.626 §7; 1995 c.658 §82; repealed by 1999 c.1051 §32]

153.390 [1981 c.626 §8; repealed by 1999 c.1051 §32]

153.395 [1981 c.626 §10; repealed by 1999 c.1051 §32]

153.400 [1981 c.626 §11; repealed by 1999 c.1051 §32]

153.405 [1981 c.626 §12; repealed by 1999 c.1051 §32]

153.410 [1981 c.626 §13; repealed by 1999 c.1051 §32]

153.415 [1981 c.626 §14; 1985 c.342 §22; 1995 c.658 §83; 1997 c.389 §14; repealed by 1999 c.1051 §32]

153.420 [1981 c.626 §15; repealed by 1999 c.1051 §32]

153.425 [1981 c.626 §16; repealed by 1995 c.292 §8]

153.430 [1981 c.626 §17; repealed by 1995 c.292 §8]

153.440 [1981 c.626 §9; 1993 c.531 §5; repealed by 1999 c.1051 §32]

153.500 [Formerly 484.010; 1987 c.730 §6; 1991 c.67 §30; 1991 c.208 §4; repealed by 1999 c.1051 §32]

153.505 [Formerly 484.350; repealed by 1999 c.1051 §32]

153.510 [Formerly 484.155; repealed by 1999 c.1051 §32]

153.515 [Formerly 484.150; repealed by 1999 c.1051 §32]

153.520 [Formerly 484.160; repealed by 1999 c.1051 §32]

153.525 [Formerly 484.170; repealed by 1999 c.1051 §32]

153.527 [1989 c.355 §1; repealed by 1999 c.1051 §32]

TRAFFIC OFFENSES

153.530 Designation of speed in complaint and summons charging violation of basic speed rule or speed limit. The complaint and summons in a citation issued for the charges specified in this section shall specify the speed at which the defendant is alleged to have driven and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate, for the district or location. This section applies to the following charges:

(1) Violating the basic speed rule under ORS 811.100.

(2) Violating a speed limit under ORS 811.111. [Formerly 484.175; 1987 c.5 §7; 1987 c.887 §14; 1999 c.1051 §79; 2003 c.819 §12]

153.535 Delivery of summons for certain traffic offenses. (1) Notwithstanding ORS 133.065 and 153.054, a summons may be delivered to a defendant personally or by mail addressed to the defendant's last-known address if:

(a) The summons is for an alleged violation of ORS 803.315, 811.520, 811.530, 815.025, 815.080 to 815.090, 815.115, 815.130, 815.185, 815.210 to 815.255, 815.275, 815.285, 816.030 to 816.300, 816.330, 816.350, 816.360 or 820.360 to 820.380;

(b) The enforcement officer gave a warning for violation of the statute to the defendant based on the officer's observation at the time the violation occurred; and

(c) After the issuance of the warning, the enforcement officer determines that the defendant received two or more warnings within the year immediately preceding the issuance of the warning for violations of the statutes specified in paragraph (a) of this subsection.

(2) Notwithstanding ORS 133.065 and 153.054, a summons may be delivered to a defendant personally or by mail addressed to the defendant's last-known address if:

(a) The summons is for an alleged violation of ORS 807.010, 811.175 or 811.182;

(b) The enforcement officer gave a warning for a traffic violation to the defendant; and

(c) After the issuance of the warning, the enforcement officer determines that the defendant had no valid operator license at the time of the warning.

(3) Proof of mailing summons under this section is sufficient proof of delivery of summons for purposes of ORS 133.065 and 153.054. [Formerly 484.180; 1983 c.338 §890; 1985 c.597 §24; 1987 c.730 §7; 1989 c.782 §36; 1999 c.1051 §80; 2001 c.335 §6]

153.540 [Formerly 484.190; 1983 c.338 §891; 1985 c.669 §16; repealed by 1999 c.1051 §32]

153.545 [Formerly 484.200; repealed by 1999 c.1051 §32]

153.550 [Formerly 484.210; 1983 c.399 §1; 1983 c.507 §2; 1985 c.16 §449; 1985 c.669 §17; repealed by 1999 c.1051 §32]

153.555 [Formerly 484.220; 1985 c.272 §3; 1989 c.472 §6; 1991 c.824 §6; 1995 c.292 §5; repealed by 1999 c.1051 §32]

153.560 [Formerly 484.230; 1983 c.338 §893; repealed by 1999 c.1051 §32]

153.565 [Formerly 484.030; 1995 c.658 §84; repealed by 1999 c.1051 §32]

153.570 [Formerly 484.040; 1983 c.565 §2; repealed by 1999 c.1051 §32]

153.575 [Formerly 484.375; 1983 c.565 §1; repealed by 1999 c.1051 §32]

153.580 [Formerly 484.390; repealed by 1999 c.1051 §32]

153.585 [Formerly 484.395; repealed by 1999 c.1051 §32]

153.590 [Formerly 484.400; repealed by 1999 c.1051 §32]

153.595 [Formerly 484.405; 1985 c.342 §23; 1995 c.658 §85; 1997 c.389 §15; repealed by 1999 c.1051 §32]

153.600 [Formerly 484.310; repealed by 1995 c.292 §8]

153.605 [Formerly 484.320; repealed by 1995 c.292 §8]

153.610 [Formerly 484.355; repealed by 1999 c.1051 §32]

153.615 [Formerly 484.360; 1993 c.531 §6; 1995 c.383 §121a; repealed by 1999 c.1051 §32]

153.620 [Formerly 484.370; repealed by 1999 c.1051 §32]

153.623 [1981 s.s. c.3 §105; 1983 c.571 §1; 1985 c.16 §450; 1987 c.730 §22; 1987 c.887 §15; 1987 c.897 §1; 1991 c.741 §9; 1993 c.531 §7; repealed by 1995 c.383 §122]

153.624 Costs for obtaining driving records. In addition to any other costs charged a person convicted of a traffic offense, a court may charge as costs and collect from any person convicted of a traffic offense any actual costs incurred in obtaining any driving records relating to the person. [Formerly 484.145; 2011 c.597 §127]

153.625 [Formerly 484.240; 1983 c.507 §1; 1985 c.16 §451; 1987 c.137 §1; 1989 c.636 §32; 1999 c.1051 §52; renumbered 810.375 in 1999]

153.630 [Formerly 484.250; 1981 s.s. c.3 §107; 1983 c.164 §1; 1983 c.763 §47; 1985 c.16 §452; 1987 c.905 §17; 1991 c.67 §31; 1993 c.741 §102; 1999 c.1051 §81; 1999 c.1095 §7; 2003 c.301 §1; 2003 c.687 §5; 2003 c.814 §5; 2009 c.614 §3; 2011 c.506 §21; repealed by 2011 c.597 §118]

DISPOSITION OF FINES AND COSTS IMPOSED IN CRIMINAL ACTION

153.633 Distribution to state. (1) In any criminal action in a circuit court in which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:

(a) $65; or

(b) The amount of the fine if the fine is less than $65.

(2) In any criminal action in a justice or municipal court in which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:

(a) $50; or

(b) The amount of the fine if the fine is less than $50.

(3) A justice or municipal court shall forward the amount prescribed under subsection (2) of this section to the Department of Revenue for deposit in the Criminal Fine Account.

(4)(a) The provisions of this section do not apply to fines imposed under ORS 339.990.

(b) The provisions of subsection (2) of this section do not apply to fines imposed in justice and municipal courts under ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1). [2011 c.597 §6b; 2012 c.89 §15; 2013 c.685 §9; 2017 c.139 §4; 2017 c.712 §4]

153.635 [Formerly 484.260; 1989 c.934 §1; repealed by 2011 c.597 §118]

153.640 Disposition of fines for traffic offenses; circuit court. (1) If a circuit court enters a judgment of conviction for a traffic offense, the full amount of the fine imposed under the judgment is payable to the state if the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement officer employed by state government, as defined in ORS 174.111.

(2)(a) If a circuit court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a sheriff, deputy sheriff, city police officer or any other enforcement officer employed by a local government, as defined in ORS 174.116:

(A) The amount prescribed by ORS 153.633 (1) is payable to the state and must be deposited in the Criminal Fine Account;

(B) Subject to paragraph (b) of this subsection, one-half of the amount remaining after any payment required by subparagraph (A) of this paragraph is payable to the local government that employs the enforcement officer; and

(C) Subject to paragraph (b) of this subsection, one-half of the amount remaining after any payment required by subparagraph (A) of this paragraph is payable to the state.

(b) If the full amount of the fine imposed by a circuit court is collected and a surcharge imposed under ORS 1.188 is part of the presumptive fine as provided in ORS 153.019 or 153.020, the last $5 of the amount collected shall be paid to the county for deposit in the county's courthouse surcharge account established under ORS 1.189. If the full amount of the fine imposed is not collected, the $5 payment required by this paragraph shall be reduced by one dollar for every dollar of the fine that is not collected. [2011 c.597 §47; 2016 c.78 §5]

153.645 Disposition of fines for traffic offenses; justice court. (1) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement officer employed by state government, as defined in ORS 174.111:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the county in which the justice court is located; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the state.

(2) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a sheriff, deputy sheriff or any other enforcement officer employed by the county:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

(b) Subject to subsection (4) of this section, the remaining amount of the fine is payable to the county in which the court is located.

(3) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an enforcement officer employed by any other local government, as defined in ORS 174.116:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the local government that employs the enforcement officer; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the county in which the court is located.

(4) If the full amount of the fine imposed by a justice court is collected, the last $16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in ORS 153.660. If the full amount of the fine imposed is not collected, the $16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1). [2011 c.597 §48; 2013 c.685 §10]

153.650 Disposition of fines for traffic offenses; municipal court. (1) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement

officer employed by state government, as defined in ORS 174.111:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the city in which the municipal court is located; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the state.

(2) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a city police officer or any other enforcement officer employed by the city:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

(b) Subject to subsection (4) of this section, the remaining amount of the fine is payable to the city in which the court is located.

(3) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an enforcement officer employed by any other local government, as defined in ORS 174.116:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the local government that employs the enforcement officer; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the city in which the court is located.

(4) If the full amount of the fine imposed by a municipal court is collected, the last $16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in ORS 153.660. If the full amount of the fine imposed is not collected, the $16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1). [2011 c.597 §49; 2013 c.685 §11]

153.655 Disposition of fines for mass transit district ordinance violations. (1) If a court enters a judgment of conviction for the violation of an ordinance enacted by the district board of a mass transit district under ORS 267.150, amounts collected under the judgment are payable as follows:

(a) The amount prescribed by ORS 153.633 (1) is payable to the state and must be deposited in the Criminal Fine Account;

(b) One-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the district that enacted the ordinance; and

(c) One-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable as provided in subsection (2) of this section.

(2)(a) If a judgment of conviction that is subject to subsection (1) of this section is entered in circuit court, the amount specified in subsection (1)(c) of this section shall be paid to the state.

(b) If a judgment of conviction that is subject to subsection (1) of this section is entered in justice court, the amount specified in subsection (1)(c) of this section shall be paid to the county that established the court.

(c) If a judgment of conviction that is subject to subsection (1) of this section is entered in municipal court, the amount specified in subsection (1)(c) of this section shall be paid to the city that established the court. [2012 c.89 §18]

Note: 153.655 was added to and made a part of ORS chapter 153 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

153.657 Disposition of fines for school attendance violations. (1) If a court enters a judgment of conviction for violation of ORS 339.020 or the requirements of ORS 339.035, amounts collected under the judgment are payable as follows:

(a) One-half of the amount is payable to the school district or the education service district that employs the person who issued the citation under ORS 339.095; and

(b) One-half of the amount is payable as provided in subsection (2) of this section.

(2)(a) If a judgment of conviction that is subject to subsection (1) of this section is entered in circuit court, the amount specified in subsection (1)(b) of this section shall be paid to the state.

(b) If a judgment of conviction that is subject to subsection (1) of this section is entered in justice court, the amount specified in subsection (1)(b) of this section shall be paid to the county that established the court.

(c) If a judgment of conviction that is subject to subsection (1) of this section is entered in municipal court, the amount specified in subsection (1)(b) of this section shall be paid to the city that established the court. [2017 c.139 §2]

Note: 153.657 was added to and made a part of ORS chapter 153 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

153.660 Use of amounts paid to county treasurer. (1) If a justice or municipal court imposes a fine for any offense other than a traffic offense and the full amount of the fine imposed is collected, the last $16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in this section. If the full amount of the fine imposed is not collected, the $16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1).

(2) Sixty percent of the amounts paid to the county treasurer under this section and under ORS 153.645 (4) and 153.650 (4) shall be deposited by the treasurer in the county treasury and may be used only for drug and alcohol programs and for the costs of planning, operating and maintaining county juvenile and adult corrections programs and facilities.

(3) Forty percent of the amounts paid to the county treasurer under this section and under ORS 153.645 (4) and 153.650 (4) shall be deposited by the treasurer in the court facilities security account established under ORS 1.182 for the county in which the court is located. [2013 c.685 §13]

153.675 Disposition of amounts payable to state and local governments. (1) Amounts payable to the state under ORS 153.633, 153.645, 153.650 and 153.657 shall be transferred by the court to the Department of Revenue for distribution as provided in ORS 305.830. Except as provided in ORS 153.640 (2)(b), amounts payable to a local government under ORS 153.640 to 153.680 and 153.657 shall be deposited by the court in the local government's general fund and are available for general governmental purposes.

(2) Justice and municipal courts must make the transfer required by subsection (1) of this section under ORS 153.633, 153.645, 153.650 and 153.657 not later than the last day of the month immediately following the month in which a payment on a judgment is received by the court. [2011 c.597 §50; 2016 c.78 §7; 2017 c.139 §5]

153.680 Costs. Any amount collected by a circuit court, justice court or municipal court as costs in a criminal action shall be retained by the court. [2011 c.597 §49a]

153.705 [Formerly 496.910; repealed by 1999 c.1051 §32]

153.710 [Formerly 496.905; repealed by 1999 c.1051 §32]

153.715 [Formerly 496.915; repealed by 1999 c.1051 §32]

153.720 [Formerly 496.920; repealed by 1999 c.1051 §32]

153.725 [Formerly 496.925; repealed by 1999 c.1051 §32]

153.730 [Formerly 496.927; repealed by 1999 c.1051 §32]

153.745 [Formerly 496.930; repealed by 1999 c.1051 §32]

153.750 [Formerly 496.935; repealed by 1999 c.1051 §32]

153.755 [Formerly 496.940; repealed by 1999 c.1051 §32]

153.760 [Formerly 496.945; 1985 c.272 §4; 1991 c.824 §5; 1995 c.292 §6; repealed by 1999 c.1051 §32]

153.765 [Formerly 496.950; repealed by 1999 c.1051 §32]

153.766 [1997 c.389 §17; repealed by 1999 c.1051 §32]

MISCELLANEOUS

153.770 Electronic filing of citation for offenses subject to written uniform citation. (1) Notwithstanding ORS 1.525, 153.045, 221.333 and 810.425, a law enforcement officer or a person authorized to enforce parking ordinance violations, following procedures established by court rule, may file a citation with the court by electronic means, without an actual signature of the officer, in lieu of using a written uniform citation. A citation filed under this section may be of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525. Law enforcement officers who file citations under this section will be deemed to certify to the complaint and will continue to have the same rights, responsibilities and liabilities in relation to those citations as to citations with complaints that are certified by an actual signature.

(2) A court may allow electronic filing of citations as described under subsection (1) of this section. Procedures established to allow electronic filing of citations under this section shall be established by court rule and shall include procedures necessary to ensure that:

(a) The information electronically filed includes all information required on a uni-

form citation adopted by the Supreme Court under ORS 1.525, or as required under ORS 221.333 and 810.425 for parking ordinance violations. However, an electronically filed citation containing all required information, but of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525, shall not be prohibited by or found in violation of a rule established under this subsection.

(b) The citation filed electronically is verifiable as being filed by a specific law enforcement officer or, for parking ordinance violations, by a person authorized to enforce parking ordinance violations.

(c) Members of the public can obtain copies of and review citations that are electronically filed and maintained under this section in the same manner as for citations filed on paper. [1995 c.781 §53; 1999 c.1051 §129; 2001 c.911 §2; 2015 c.13 §2]

153.772 Suspension of driving privileges for failure to appear; limitation on district attorney's authority. When the court issues a notice under ORS 809.220 to suspend the driving privileges of a person for failure to appear on a citation for a violation of ORS 471.430, the district attorney may not file an accusatory instrument charging the person with violating ORS 153.992. [2001 c.817 §9]

Note: 153.772 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

VIOLATIONS BUREAUS

153.800 Violations Bureau established by court; uniform fine schedule. (1) Any court of this state may establish a Violations Bureau and designate the clerk or deputy clerk of the court or any other appropriate person to act as a violations clerk for the Violations Bureau. The violations clerk shall serve under the direction and control of the court appointing the clerk.

(2) A violations clerk may exercise authority over any violation. A justice or municipal court establishing a Violations Bureau shall by order specify the violations that are subject to the authority of the violations clerk.

(3) Except as provided in subsection (6) of this section, the violations clerk shall accept:

(a) Written appearance, waiver of trial, plea of no contest and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or

(b) Payment of presumptive fine amounts for violations that are subject to the authority of the violations clerk.

(4)(a) Courts other than circuit courts shall establish schedules, within the limits prescribed by law, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. The order of the court establishing the schedules shall be prominently posted in the place where penalties established under the schedule are paid.

(b) The Chief Justice of the Supreme Court shall establish a uniform fine schedule for violations prosecuted in circuit courts. The schedule must specify the violations that are subject to the authority of the violations clerk.

(c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.

(5) Any person charged with a violation within the authority of the violations clerk may:

(a) Upon signing an appearance, plea of no contest and waiver of trial, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

(b) Pay the clerk the presumptive fine amount established for the violation. Payment of the presumptive fine amount under this paragraph constitutes consent to forfeiture of the presumptive fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of the presumptive fine amount under this paragraph is not consent to forfeiture of the presumptive fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

(6) A person who has been found guilty of, or who has signed a plea of no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court may not appear before the violations clerk unless the court, by general order applying to certain specified offenses, permits such appearance.

(7) A circuit court may use a Central Violations Bureau established under ORS 153.806 in addition to establishing and operating a Violations Bureau under this section, and may delegate to the State Court Administrator the authority to designate appropriate persons to act as violations clerks for the Central Violations Bureau. [1995 c.292 §1; 1997 c.801 §149; 1999 c.59 §30; 1999 c.1051 §130; 2011 c.597 §149; 2012 c.89 §8; 2019 c.60 §5]

153.805 [Formerly 136.750; repealed by 1999 c.1051 §32]

153.806 Central Violations Bureau; rules. (1) The State Court Administrator may establish a Central Violations Bureau for the processing of violations in circuit courts.

(2)(a) The administrator may designate employees of the administrator to act as violations clerks for the Central Violations Bureau.

(b) A violations clerk shall serve under the direction and control of the administrator.

(c) A violations clerk of the Central Violations Bureau may exercise authority over any violation specified by the Chief Justice of the Supreme Court under subsection (4) of this section.

(3) A circuit court may use a Central Violations Bureau established under this section in addition to establishing and operating a Violations Bureau under ORS 153.800.

(4) The uniform fine schedule for violations prosecuted in circuit courts established by the Chief Justice of the Supreme Court under ORS 153.800 must specify the violations that are subject to the authority of the Central Violations Bureau violations clerk.

(5)(a) Except as provided in subsection (7) of this section, a violations clerk shall accept:

(A) Written appearance or appearance by electronic or telephonic means, waiver of trial, plea of no contest and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or

(B) Payment of presumptive fine amounts for violations that are subject to the authority of the violations clerk.

(b) A violations clerk may accept payments made by electronic or telephonic means.

(c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.

(6)(a) A person charged with a violation within the authority of the violations clerk may:

(A) Upon signing an appearance, plea of no contest and waiver of trial, or upon appearing and entering a plea and waiver by electronic or telephonic means, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

(B) Pay the clerk the presumptive fine amount established for the violation. Payment of the presumptive fine amount under this paragraph constitutes consent to forfeiture of the presumptive fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of the presumptive fine amount under this paragraph is not consent to forfeiture of the presumptive fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

(b) Notwithstanding ORS 153.021 and paragraph (a) of this subsection, the violations clerk may offer a reduction in the presumptive fine for a person making payment through the Internet.

(7) A person who has been found guilty of, or who has signed a plea of no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court may not appear before the violations clerk unless the Chief Justice of the Supreme Court, by general order applying to certain specified offenses, permits such appearance.

(8) The Chief Justice of the Supreme Court may adopt rules to carry out the provisions of this section. [2019 c.60 §1]

Note: 153.806 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

153.808 [Formerly 136.753; repealed by 1999 c.1051 §32]

153.810 [Formerly 136.756; repealed by 1999 c.1051 §32]

MULTNOMAH COUNTY PARKING VIOLATION PROCEDURES

153.820 Special procedures for parking violations in Multnomah County. (1) A court may use the procedure provided in this section only in a county with a population of more than 500,000.

(2) The court may proceed to make a determination without a hearing on a citation for a parking violation if:

(a) None of the registered owners of the vehicle appears within the time allowed at the court specified in the citation;

(b) Notice of the citation and the provisions of this section are mailed to the registered owner or owners of the vehicle at the address or addresses reflected in the records of the Department of Transportation; and

(c) No request for hearing or other appearance is filed with the court within 60 days after the mailing date of the notice required by paragraph (b) of this subsection.

(3) The court may proceed to make a determination without a hearing on a citation for a parking violation if at least one of the registered owners of the vehicle appears within the time allowed at the court specified in the citation and requests a hearing, but thereafter fails to appear at the time, date and court set for any subsequent hearing in the matter. If a determination is made under the provisions of this subsection, the court shall mail notice of any sentence and judgment to the registered owner or owners of the vehicle at the address or addresses reflected in the records of the Department of Transportation.

(4) A determination under this section shall be on the citation and on any evidence that the court may, in its discretion, determine to be appropriate.

(5) Upon making a determination under this section, the court may enter judgment and, if the determination is one of conviction, may impose a sentence of a fine within the limits established for the parking violation along with a money award for costs, assessments and other amounts authorized by law.

(6) A sentence to pay a fine under this section does not prevent:

(a) Taking any other action against the person as permitted by law for the person's failure to comply, including, but not limited to, sentencing the person further as permitted by law after the person is brought to hearing.

(b) Following any procedures established by law when the person fails to appear.

(7) On motion and upon such terms as are just, the court may relieve a person from a judgment entered under this section upon a showing that the failure of the person to appear was due to mistake, inadvertence, surprise or excusable neglect. The motion must be made within a reasonable time, and in no event more than one year after entry of judgment in the matter.

(8) A judgment may be entered under this section only if the citation issued to the person contains a statement notifying the person that a judgment may be entered against the person up to the maximum amount of fines, assessments and other costs allowed by law for the parking violation if the person fails to appear at the time, date and court specified in the citation or fails to appear at subsequently scheduled hearings in the matter.

(9) Notwithstanding any other provision of law, a judgment entered under this section does not create a judgment lien and cannot become a judgment lien by any means. [1997 c.801 §98; 2003 c.576 §172]

PENALTIES

153.990 Penalty for false certification. Any person who in connection with the issuance of a citation, or the filing of a complaint, under this chapter, knowingly certifies falsely to the matters set forth therein commits a Class A misdemeanor. [1981 c.692 §14; 1999 c.1051 §31]

153.992 Penalty for failure to appear. (1) A person commits the offense of failure to appear in a violation proceeding if the person has been served with a violation citation issued under this chapter and the person knowingly fails to do any of the following:

(a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.

(b) Make appearance at the time set for trial in the violation proceeding.

(c) Appear at any other time required by the court or by law.

(2) Failure to appear on a violation citation is a Class A misdemeanor. [1999 c.1051 §29]

153.995 [Formerly 484.990; repealed by 1999 c.1051 §32]

153.997 [1991 c.806 §1; repealed by 1999 c.1051 §32]

CHAPTERS 154 AND 155

[Reserved for expansion]

Chapter 183

2019 EDITION

Administrative Procedures Act; Review of Rules; Civil Penalties

ADMINISTRATIVE PROCEDURES ACT

(General Provisions)

183.310 Definitions for chapter

183.315 Application of provisions of chapter to certain agencies

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183.025 [Formerly 182.065; 1993 c.729 §4; 2003 c.749 §8; renumbered 183.750 in 2003]

183.030 [Repealed by 1971 c.734 §21]

183.040 [Repealed by 1971 c.734 §21]

183.050 [Repealed by 1971 c.734 §21]

183.060 [1957 c.147 §1; repealed by 1969 c.292 §3]

183.090 [1991 c.734 §2; 1997 c.387 §3; 2001 c.621 §71; renumbered 183.745 in 2003]

ADMINISTRATIVE PROCEDURES ACT
(General Provisions)

183.310 Definitions for chapter. As used in this chapter:

(1) "Agency" means any state board, commission, department, or division thereof, or officer authorized by law to make rules or to issue orders, except those in the legislative and judicial branches.

(2)(a) "Contested case" means a proceeding before an agency:

(A) In which the individual legal rights, duties or privileges of specific parties are required by statute or Constitution to be determined only after an agency hearing at which such specific parties are entitled to appear and be heard;

(B) Where the agency has discretion to suspend or revoke a right or privilege of a person;

(C) For the suspension, revocation or refusal to renew or issue a license where the licensee or applicant for a license demands such hearing; or

(D) Where the agency by rule or order provides for hearings substantially of the character required by ORS 183.415, 183.417, 183.425, 183.450, 183.460 and 183.470.

(b) "Contested case" does not include proceedings in which an agency decision rests solely on the result of a test.

(3) "Economic effect" means the economic impact on affected businesses by and the costs of compliance, if any, with a rule for businesses, including but not limited to the costs of equipment, supplies, labor and administration.

(4) "Hearing officer" includes an administrative law judge.

(5) "License" includes the whole or part of any agency permit, certificate, approval, registration or similar form of permission required by law to pursue any commercial activity, trade, occupation or profession.

(6)(a) "Order" means any agency action expressed orally or in writing directed to a named person or named persons, other than employees, officers or members of an agency. "Order" includes any agency determination or decision issued in connection with a contested case proceeding. "Order" includes:

(A) Agency action under ORS chapter 657 making determination for purposes of unemployment compensation of employees of the state;

(B) Agency action under ORS chapter 240 which grants, denies, modifies, suspends or revokes any right or privilege of an employee of the state; and

(C) Agency action under ORS 468B.050 to issue a permit.

(b) "Final order" means final agency action expressed in writing. "Final order" does not include any tentative or preliminary agency declaration or statement that:

(A) Precedes final agency action; or

(B) Does not preclude further agency consideration of the subject matter of the statement or declaration.

(7) "Party" means:

(a) Each person or agency entitled as of right to a hearing before the agency;

(b) Each person or agency named by the agency to be a party; or

(c) Any person requesting to participate before the agency as a party or in a limited party status which the agency determines either has an interest in the outcome of the agency's proceeding or represents a public interest in such result. The agency's determination is subject to judicial review in the manner provided by ORS 183.482 after the agency has issued its final order in the proceedings.

(8) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than an agency.

(9) "Rule" means any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(a) Unless a hearing is required by statute, internal management directives, regulations or statements which do not substantially affect the interests of the public:

(A) Between agencies, or their officers or their employees; or

(B) Within an agency, between its officers or between employees.

(b) Action by agencies directed to other agencies or other units of government which

do not substantially affect the interests of the public.

(c) Declaratory rulings issued pursuant to ORS 183.410 or 305.105.

(d) Intra-agency memoranda.

(e) Executive orders of the Governor.

(f) Rules of conduct for persons committed to the physical and legal custody of the Department of Corrections, the violation of which will not result in:

(A) Placement in segregation or isolation status in excess of seven days.

(B) Institutional transfer or other transfer to secure confinement status for disciplinary reasons.

(C) Disciplinary procedures adopted pursuant to ORS 421.180.

(10)(a) "Small business" means a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees.

(b) "Small business" does not include a coordinated care organization as defined in ORS 414.025. [1957 c.717 §1; 1965 c.285 §78a; 1967 c.419 §32; 1969 c.80 §37a; 1971 c.734 §1; 1973 c.386 §4; 1973 c.621 §1a; 1977 c.374 §1; 1977 c.798 §1; 1979 c.593 §6; 1981 c.755 §1; 1987 c.320 §141; 1987 c.861 §1; 2003 c.75 §71; 2005 c.523 §8; 2007 c.288 §9; 2019 c.529 §4]

183.315 Application of provisions of chapter to certain agencies. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation, Department of Consumer and Business Services with respect to its functions under ORS chapters 654 and 656, State Board of Parole and Post-Prison Supervision or Psychiatric Security Review Board with respect to its functions under ORS 161.315 to 161.351.

(2) This chapter does not apply with respect to actions of the Governor authorized under ORS chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

(3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and 183.460 do not apply to the Employment Appeals Board or the Employment Department.

(4) The Employment Department shall be exempt from the provisions of this chapter to the extent that a formal finding of the United States Secretary of Labor is made that such provision conflicts with the terms of the federal law, acceptance of which by the state is a condition precedent to continued certification by the United States Secretary of Labor of the state's law.

(5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490 to 183.500 do not apply to orders issued to persons who:

(a) Have been committed pursuant to ORS 137.124 to the custody of the Department of Corrections or are otherwise confined in a Department of Corrections facility; or

(b) Seek to visit an adult in custody confined in a Department of Corrections facility.

(6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do not apply to the Public Utility Commission. Except as provided in ORS 774.180, judicial review of an order issued by the commission in a contested case may be sought only by a party to the contested case.

(7) The provisions of this chapter do not apply to the suspension, cancellation or termination of an apprenticeship or training agreement under ORS 660.060.

(8) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings conducted under rules adopted by the Secretary of State under ORS 246.190. [1971 c.734 §19; 1973 c.612 §3; 1973 c.621 §2; 1973 c.694 §1; 1975 c.759 §1; 1977 c.804 §45; 1979 c.593 §7; 1981 c.711 §16; 1987 c.320 §142; 1987 c.373 §21; 1989 c.90 §1; 1997 c.26 §1; 1999 c.448 §6; 1999 c.679 §1; 2003 c.64 §8; 2005 c.512 §30; 2005 c.638 §1; 2007 c.239 §8; 2007 c.288 §10; 2011 c.708 §24; 2017 c.312 §1; 2017 c.442 §23; 2019 c.213 §54]

183.317 [1971 c.734 §187; repealed by 1979 c.593 §34]

183.320 [1957 c.717 §15; repealed by 1971 c.734 §21]

(Adoption of Rules)

183.325 Delegation of rulemaking authority to named officer or employee. Unless otherwise provided by law, an agency may delegate its rulemaking authority to an officer or employee within the agency. A delegation of authority under this section must be made in writing and filed with the Secretary of State before the filing of any rule adopted pursuant to the delegation. A delegation under this section may be made only to one or more named individuals. The delegation of authority shall reflect the name of the authorized individual or individuals, and be signed in acknowledgment by the named individuals. Any officer or employee to whom rulemaking authority is delegated under this section is an "agency" for the purposes of the rulemaking requirements of this chapter. [1979 c.593 §10; 1993 c.729 §1]

183.330 Description of organization; service of order; rules coordinator; order not final until put in writing. (1) In addition to other rulemaking requirements im-

posed by law, each agency shall publish a description of its organization and the methods whereby the public may obtain information or make submissions or requests.

(2) Each state agency that adopts rules shall appoint a rules coordinator and file a copy of that appointment with the Secretary of State. The rules coordinator shall:

(a) Maintain copies of all rules adopted by the agency;

(b) Provide to the public, upon request, information pertaining to:

(A) All rulemaking proceedings of the agency;

(B) The status of the agency's rules; and

(C) All certificates and rules filed by the agency with the Secretary of State; and

(c) Keep and make available the mailing list required by ORS 183.335 (8).

(3) An order shall not be effective as to any person or party unless it is served upon the person or party either personally or by mail. This subsection is not applicable in favor of any person or party who has actual knowledge of the order.

(4) An order is not final until it is reduced to writing. [1957 c.717 §2; 1971 c.734 §4; 1975 c.759 §3; 1979 c.593 §8; 1993 c.729 §2; 2001 c.220 §3; 2017 c.518 §1]

183.332 Policy statement; conformity of state rules with equivalent federal laws and rules. It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules unless:

(1) There is specific statutory direction to the agency that authorizes the adoption of the rule;

(2) A federal waiver has been granted that authorizes the adoption of the rule;

(3) Local or special conditions exist in this state that warrant a different rule;

(4) The state rule has the effect of clarifying the federal rules, standards, procedures or requirements;

(5) The state rule achieves the goals of the federal and state law with the least impact on public and private resources; or

(6) There is no corresponding federal regulation. [1997 c.602 §2]

183.333 Policy statement; public involvement in development of policy and drafting of rules; advisory committees. (1) The Legislative Assembly finds and declares that it is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and in the drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maximum extent possible before giving notice of intent to adopt a rule. The agency may appoint an advisory committee that will represent the interests of persons likely to be affected by the rule, or use any other means of obtaining public views that will assist the agency in drafting the rule.

(2) Any agency in its discretion may develop a list of interested parties and inform those parties of any issue that may be the subject of rulemaking and invite the parties to make comments on the issue.

(3) If an agency appoints an advisory committee for consideration of a rule under subsection (1) of this section, the agency shall seek the committee's recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee's recommendations on compliance with ORS 183.540.

(4) An agency shall consider an advisory committee's recommendations provided under subsection (3) of this section in preparing the statement of fiscal impact required by ORS 183.335 (2)(b)(E).

(5) If an agency does not appoint an advisory committee for consideration of a permanent rule under subsection (1) of this section and 10 or more persons likely to be affected by the rule object to the agency's statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with at least 10 members likely to be affected by the rule objects to the statement, the agency shall appoint a fiscal impact advisory committee to provide recommendations on whether the rule will have a fiscal impact and what the extent of that impact will be. An objection under this subsection must be made not later than 14 days after the notice required by ORS 183.335 (1) is given. If the agency determines that the statement does not adequately reflect the rule's fiscal impact, the agency shall extend the period for submission of data or views under ORS 183.335 (3)(a) by at least 20 days. The agency shall include any recommendations from the committee in the record maintained by the agency for the rule.

(6) An agency may appoint the Small Business Rules Advisory Committee established in ORS 183.407 as the advisory committee or fiscal impact advisory committee for purposes of this section.

(7) Subsection (5) of this section does not apply to any rule adopted by an agency to comply with a judgment or a settlement of a judicial proceeding.

(8) If an agency is required by law to appoint an advisory committee under this section, the agency may not appoint an officer, employee or other agent of the agency to serve as a member of the advisory committee. [2003 c.749 §4; 2005 c.807 §4; 2013 c.273 §1; 2018 c.20 §3]

183.335 Notice; content; public comment; temporary rule adoption, amendment or suspension; substantial compliance required. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice of its intended action:

(a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which provides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

(b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

(c) At least 28 days before the effective date, to persons who have requested notice pursuant to subsection (8) of this section; and

(d) Delivered only by electronic mail, at least 49 days before the effective date, to the persons specified in subsection (15) of this section.

(2)(a) The notice required by subsection (1) of this section must include:

(A) A caption of not more than 15 words that reasonably identifies the subject matter of the agency's intended action. The agency shall include the caption on each separate notice, statement, certificate or other similar document related to the intended action.

(B) An objective, simple and understandable statement summarizing the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.

(b) The agency shall include with the notice of intended action given under subsection (1) of this section:

(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(B) A citation of the statute or other law the rule is intended to implement;

(C) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list;

(E) A statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected. For an agency specified in ORS 183.530, the statement of fiscal impact shall also include a housing cost impact statement as described in ORS 183.534;

(F) If an advisory committee is not appointed under the provisions of ORS 183.333, an explanation as to why no advisory committee was used to assist the agency in drafting the rule; and

(G) A request for public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

(c) The Secretary of State may omit the information submitted under paragraph (b) of this subsection from publication in the bulletin referred to in ORS 183.360.

(d) When providing notice of an intended action under subsection (1)(c) of this section, the agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall show all changes to the rule by striking through material to be deleted and underlining all new material, or by any other method that clearly shows all new and deleted material.

(3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon request received from 10 persons or from an associ-

ation having not less than 10 members before the earliest date that the rule could become effective after the giving of notice pursuant to subsection (1) of this section. An agency holding a hearing upon a request made under this subsection shall give notice of the hearing at least 21 days before the hearing to the person who has requested the hearing, to persons who have requested notice pursuant to subsection (8) of this section and to the persons specified in subsection (15) of this section. The agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 at least 14 days before the hearing. The agency shall consider fully any written or oral submission.

(b) If an agency is required to conduct an oral hearing under paragraph (a) of this subsection, and the rule for which the hearing is to be conducted applies only to a limited geographical area within this state, or affects only a limited geographical area within this state, the hearing shall be conducted within the geographical area at the place most convenient for the majority of the residents within the geographical area. At least 14 days before a hearing conducted under this paragraph, the agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 and in a newspaper of general circulation published within the geographical area that is affected by the rule or to which the rule applies. If a newspaper of general circulation is not published within the geographical area that is affected by the rule or to which the rule applies, the publication shall be made in the newspaper of general circulation published closest to the geographical area.

(c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by adults in custody in the proposed adoption, amendment or repeal of any rule to written submissions.

(d) If requested by at least five persons before the earliest date that the rule could become effective after the agency gives notice pursuant to subsection (1) of this section, the agency shall provide a statement that identifies the objective of the rule and a statement of how the agency will subsequently determine whether the rule is in fact accomplishing that objective.

(e) An agency that receives data or views concerning proposed rules from interested persons shall maintain a record of the data or views submitted. The record shall contain:

(A) All written materials submitted to an agency in response to a notice of intent to adopt, amend or repeal a rule.

(B) A recording or summary of oral submissions received at hearings held for the purpose of receiving those submissions.

(C) Any public comment received in response to the request made under subsection (2)(b)(G) of this section and the agency's response to that comment.

(D) Any statements provided by the agency under paragraph (d) of this subsection.

(4) Upon request of an interested person received before the earliest date that the rule could become effective after the giving of notice pursuant to subsection (1) of this section, the agency shall postpone the date of its intended action no less than 21 nor more than 90 days in order to allow the requesting person an opportunity to submit data, views or arguments concerning the proposed action. Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant to subsection (5) of this section.

(5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if the agency prepares:

(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection; and

(e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS 183.534.

(6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary and may be effective for a period of not longer than 180 days. The adoption of a rule under this subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to (4) of this section.

(b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary period of suspension unless the

rule is repealed under subsections (1) to (4) of this section.

(7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without prior notice or hearing if the amendment is solely for the purpose of:

(a) Changing the name of an agency by reason of a name change prescribed by law;

(b) Changing the name of a program, office or division within an agency as long as the change in name does not have a substantive effect on the functions of the program, office or division;

(c) Correcting spelling;

(d) Correcting grammatical mistakes in a manner that does not alter the scope, application or meaning of the rule;

(e) Correcting statutory or rule references; or

(f) Correcting addresses or telephone numbers referred to in the rules.

(8)(a) Any person may request in writing that an agency send to the person copies of the agency's notices of intended action issued under subsection (1) of this section. The person must provide an address where the person elects to receive notices. The address provided may be a postal mailing address or, if the agency provides notice by electronic mail, may be an electronic mailing address.

(b) A request under this subsection must indicate that the person requests one of the following:

(A) The person may request that the agency mail paper copies of the proposed rule and other information required by subsection (2) of this section to the postal mailing address.

(B) If the agency posts notices of intended action on a website, the person may request that the agency mail the information required by subsection (2)(a) of this section to the postal mailing address with a reference to the website where electronic copies of the proposed rule and other information required by subsection (2) of this section are posted.

(C) The person may request that the agency electronically mail the information required by subsection (2)(a) of this section to the electronic mailing address, and either provide electronic copies of the proposed rule and other information required by subsection (2) of this section or provide a reference to a website where electronic copies of the proposed rule and other information required by subsection (2) of this section are posted.

(c) Upon receipt of any request under this subsection, the agency shall acknowledge the request, establish a mailing list and maintain a record of all mailings made pursuant to the request. Agencies may establish procedures for establishing the mailing lists and keeping the mailing lists current. Agencies by rule may establish fees necessary to defray the costs of mailings and maintenance of the lists.

(d) Members of the Legislative Assembly who receive notices under subsection (15) of this section may request that an agency furnish paper copies of the notices.

(9) This section does not apply to rules establishing an effective date for a previously effective rule or establishing a period during which a provision of a previously effective rule will apply.

(10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.161, 279A.250 to 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280, 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and 279C.800 to 279C.870 relating to public contracts and purchasing.

(11)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless adopted in substantial compliance with the provisions of this section in effect on the date that the notice required under subsection (1) of this section is delivered to the Secretary of State for the purpose of publication in the bulletin referred to in ORS 183.360.

(b) In addition to all other requirements with which rule adoptions must comply, a rule other than a rule amended for a purpose described in subsection (7) of this section is not valid if the rule has not been submitted to the Legislative Counsel in the manner required by ORS 183.355 and 183.715.

(c) A rule is not subject to judicial review or other challenge by reason of failing to comply with subsection (2)(a)(A) of this section.

(12)(a) Notwithstanding the provisions of subsection (11) of this section, but subject to paragraph (b) of this subsection, an agency may correct its failure to substantially comply with the requirements of subsections (2) and (5) of this section in adoption of a rule by an amended filing, as long as the noncompliance did not substantially prejudice the interests of persons to be affected by the rule.

(b) An agency may use an amended filing to correct a failure to include a fiscal impact statement in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct an inaccurate fiscal im-

pact statement, only if the agency developed the fiscal impact statement with the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS 183.333.

(13) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an agency need not be based upon or supported by an evidentiary record.

(14) When an agency has established a deadline for comment on a proposed rule under the provisions of subsection (3)(a) of this section, the agency may not extend that deadline for another agency or person unless the extension applies equally to all interested agencies and persons. An agency shall not consider any submission made by another agency after the final deadline has passed.

(15) The notices required under subsections (1) and (3) of this section must be given by the agency to the following persons:

(a) If the proposed adoption, amendment or repeal results from legislation that was passed within two years before notice is given under subsection (1) of this section, notice shall be given to the legislator who introduced the bill that subsequently was enacted into law, and to the chair or cochairs of all committees that reported the bill out, except for those committees whose sole action on the bill was referral to another committee.

(b) If the proposed adoption, amendment or repeal does not result from legislation that was passed within two years before notice is given under subsection (1) of this section, notice shall be given to the chair or cochairs of any interim or session committee with authority over the subject matter of the rule.

(c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given to the Speaker of the House of Representatives and to the President of the Senate who are in office on the date the notice is given.

(16)(a) Upon the request of a member of the Legislative Assembly or of a person who would be affected by a proposed adoption, amendment or repeal, the committees receiving notice under subsection (15) of this section shall review the proposed adoption, amendment or repeal for compliance with the legislation from which the proposed adoption, amendment or repeal results.

(b) The committees shall submit their comments on the proposed adoption, amendment or repeal to the agency proposing the adoption, amendment or repeal. [1971 c.734 §3; 1973 c.612 §1; 1975 c.136 §11; 1975 c.759 §4; 1977 c.161 §1; 1977 c.344 §6; 1977 c.394 §1a; 1977 c.798 §2; 1979 c.593 §11; 1981 c.755 §2; 1987 c.861 §2; 1993 c.729 §3; 1995 c.652 §5; 1997 c.602 §3; 1999 c.123 §1; 1999 c.334 §1; 2001 c.220 §1; 2001 c.563 §1; 2003 c.749 §5; 2003 c.794 §206; 2005 c.17 §1; 2005 c.18 §1; 2005 c.382 §1; 2005 c.807 §5; 2007 c.115 §1; 2007 c.768 §58; 2011 c.380 §2; 2017 c.518 §2; 2019 c.213 §126]

183.336 Cost of compliance effect on small businesses. (1) The statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) must include:

(a) An estimate of the number of small businesses subject to the proposed rule and identification of the types of businesses and industries with small businesses subject to the proposed rule;

(b) A brief description of the projected reporting, recordkeeping and other administrative activities required for compliance with the proposed rule, including costs of professional services;

(c) An identification of equipment, supplies, labor and increased administration required for compliance with the proposed rule; and

(d) A description of the manner in which the agency proposing the rule involved small businesses in the development of the rule.

(2) An agency shall utilize available information in complying with the requirements of this section. [2005 c.807 §2]

183.337 Procedure for agency adoption of federal rules. (1) Notwithstanding ORS 183.335, when an agency is required to adopt rules or regulations promulgated by an agency of the federal government and the agency has no authority to alter or amend the content or language of those rules or regulations prior to their adoption, the agency may adopt those rules or regulations under the procedure prescribed in this section.

(2) Prior to the adoption of a federal rule or regulation under subsection (1) of this section, the agency shall give notice of the adoption of the rule or regulation, the effective date of the rule or regulation in this state and the subject matter of the rule or regulation in the manner established in ORS 183.335 (1).

(3) After giving notice the agency may adopt the rule or regulation by filing a copy with the Secretary of State in compliance with ORS 183.355. The agency is not required to conduct a public hearing concerning the adoption of the rule or regulation.

(4) Nothing in this section authorizes an agency to amend federal rules or regulations or adopt rules in accordance with federal requirements without giving an opportunity for hearing as required by ORS 183.335. [1979 c.593 §15]

183.340 [1957 c.717 §3 (3); 1971 c.734 §6; repealed by 1975 c.759 §5 (183.341 enacted in lieu of 183.340)]

183.341 Model rules of procedure; establishment; compilation; publication; agencies required to adopt procedural rules. (1) The Attorney General shall prepare model rules of procedure appropriate for use by as many agencies as possible. Except as provided in ORS 183.630, any agency may adopt all or part of the model rules by reference without complying with the rulemaking procedures under ORS 183.335. Notice of such adoption shall be filed with the Secretary of State in the manner provided by ORS 183.355 for the filing of rules. The model rules may be amended from time to time by an adopting agency or the Attorney General after notice and opportunity for hearing as required by rulemaking procedures under this chapter.

(2) Except as provided in ORS 183.630, all agencies shall adopt rules of procedure to be utilized in the adoption of rules and conduct of proceedings in contested cases or, if exempt from the contested case provisions of this chapter, for the conduct of proceedings.

(3) The Secretary of State shall publish in the Oregon Administrative Rules:

(a) The Attorney General's model rules adopted under subsection (1) of this section;

(b) The procedural rules of all agencies that have not adopted the Attorney General's model rules; and

(c) The notice procedures required by ORS 183.335 (1).

(4) Agencies shall adopt rules of procedure which will provide a reasonable opportunity for interested persons to be notified of the agency's intention to adopt, amend or repeal a rule.

(5) No rule adopted after September 13, 1975, is valid unless adopted in substantial compliance with the rules adopted pursuant to subsection (4) of this section. [1975 c.759 §6 (enacted in lieu of 183.340); 1979 c.593 §12; 1997 c.837 §1; 1999 c.849 §§24,25; 2003 c.75 §28]

183.350 [1957 c.717 §3 (1), (2); repealed by 1971 c.734 §21]

183.355 Filing and taking effect of rules; filing of executive orders; copies; fees; rules. (1) The Secretary of State shall by rule prescribe requirements for the manner and form for filing rules adopted, amended or repealed by agencies. The Secretary of State may refuse to accept for filing any rules that do not comply with the requirements.

(2)(a) Each agency shall file with the office of the Secretary of State each rule adopted by the agency.

(b) Unless otherwise provided by rule adopted by the Secretary of State, an agency adopting a rule incorporating published standards by reference is not required to file a copy of those standards with the Secretary of State if:

(A) The standards adopted are unusually voluminous and costly to reproduce; and

(B) The rule filed with the Secretary of State identifies the location of the standards so incorporated and the conditions of their availability to the public.

(3) Each rule is effective upon filing as required by subsection (2) of this section, except that:

(a) If a later effective date is required by statute or specified in the rule, the later date is the effective date.

(b) A temporary rule becomes effective upon filing with the Secretary of State, or at a designated later date, only if the statement required by ORS 183.335 (5) is filed with the rule. The agency shall take appropriate measures to make temporary rules known to the persons who may be affected by them.

(4) When a rule is amended or repealed by an agency, the agency shall file the amendment or notice of repeal with the Secretary of State.

(5) A certified copy of each executive order issued, prescribed or promulgated by the Governor shall be filed in the office of the Secretary of State.

(6) A rule is not valid or effective against any person or party until the rule is filed in accordance with this section. However, if an agency, in disposing of a contested case, announces in its decision the adoption of a general policy applicable to the case and subsequent cases of like nature the agency may rely upon the decision in disposition of later cases.

(7) The Secretary of State shall, upon request, supply copies of rules, or orders or designated parts of rules or orders, in the format requested, making and collecting therefor fees prescribed by ORS 177.130. All receipts from the sale of copies shall be deposited in the State Treasury to the credit of the Secretary of State Miscellaneous Receipts Account established under ORS 279A.290.

(8) The Secretary of State shall establish and collect fees from agencies filing rules under this section. The fees shall be established in amounts calculated to be necessary to generate revenues adequate to pay costs incurred by the Secretary of State in performing the following duties that are not paid for by subscriber fees or other fees prescribed by law:

(a) Publication of the compilation referred to in ORS 183.360 (1);

(b) Electronic publication of the bulletin referred to in ORS 183.360 (3); and

(c) Electronic publication of rules and other information relating to rules under ORS 183.365.

(9) All fees collected under subsection (8) of this section shall be deposited in the State Treasury to the credit of the Secretary of State Miscellaneous Receipts Account established under ORS 279A.290.

(10) No later than 10 days after an agency files an adopted, amended or repealed rule with the Secretary of State, other than a rule amended for a purpose described in ORS 183.335 (7), the Secretary of State shall:

(a) Electronically transmit the rule to the Legislative Counsel in accordance with ORS 183.715; and

(b) Provide to the agency that filed the rule a written confirmation that the rule was transmitted to the Legislative Counsel. [1971 c.734 §5; 1973 c.612 §2; 1975 c.759 §7; 1977 c.798 §2b; 1979 c.593 §13; 1991 c.169 §2; 2003 c.794 §207; 2009 c.289 §1; 2017 c.518 §3]

183.360 Publication of rules and orders; exceptions; requirements; bulletin; judicial notice; citation. (1) The Secretary of State shall compile, index and publish all rules adopted by each agency. The compilation shall be supplemented or revised as often as necessary. Such compilation supersedes any other rules. The Secretary of State may make such compilations of other material published in the bulletin as are desirable. The Secretary of State may copyright the compilations prepared under this subsection, and may establish policies for the revision, clarification, classification, arrangement, indexing, printing, binding, publication, sale and distribution of the compilations.

(2) The Secretary of State has discretion to omit from the compilation, if published in print, rules the publication of which would be unduly cumbersome or expensive if the rule in printed or processed form is made available on application to the adopting agency, and if the compilation contains a notice summarizing the omitted rule and stating how a copy of the omitted rule may be obtained. In preparing the compilation the Secretary of State may not alter the sense, meaning, effect or substance of any rule, but may renumber sections and parts of sections of the rules, change the wording of headnotes, rearrange sections, change reference numbers to agree with renumbered chapters, sections or other parts, substitute the proper subsection, section or chapter or other division numbers, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors.

(3) The Secretary of State shall publish at least at monthly intervals a bulletin that:

(a) Briefly indicates the agencies that are proposing to adopt, amend or repeal a rule, the subject matter of the rule and the name, address and telephone number of an agency officer or employee from whom information and a copy of any proposed rule may be obtained;

(b) Contains the text or a brief description of all rules filed under ORS 183.355 since the last bulletin indicating the effective date of the rule;

(c) Contains executive orders of the Governor; and

(d) Contains orders issued by the Director of the Department of Revenue under ORS 305.157 extending tax statutes of limitation.

(4) Courts shall take judicial notice of rules and executive orders filed with the Secretary of State.

(5) The compilation required by subsection (1) of this section shall be titled Oregon Administrative Rules and may be cited as "OAR" with appropriate numerical indications.

(6) The Secretary of State may publish the compilation and bulletin required by this section in print, or by placing the compilation and bulletin on the Internet. [1957 c.717 §4 (1),(2),(3); 1961 c.464 §1; 1971 c.734 §7; 1973 c.612 §4; 1975 c.759 §7a; 1977 c.394 §2; 1979 c.593 §16; 1993 c.729 §13; 1995 c.79 §62; 2001 c.104 §63; 2003 c.168 §3; 2009 c.289 §2; 2017 c.518 §4]

183.362 [1993 c.729 §12; repealed by 2017 c.518 §9]

183.365 Publication of administrative rules in electronic form. (1) Pursuant to ORS 183.360, the Secretary of State shall publish in electronic form administrative rules adopted or amended by state agencies and make the information available to the public and members of the Legislative Assembly.

(2) The Secretary of State shall determine the most cost-effective format and procedures for the timely release of the information described in subsection (1) of this section in electronic form.

(3) Pursuant to ORS 183.355, the Secretary of State shall establish requirements for filing administrative rules adopted or amended by state agencies for entry into computer networks for the purpose of subsection (1) of this section.

(4) Although each state agency is responsible for its information resources, centralized information resource management must also exist to:

(a) Provide public access to the information described in subsection (1) of this section;

(b) Provide technical assistance to state agencies; and

(c) Ensure that the information resources needed to implement subsection (1) of this section are addressed along with the needs of the individual agencies.

(5) Personal information concerning a person who accesses the information identified in subsection (1) of this section may be maintained only for the purpose of providing service to the person.

(6) No fee or other charge may be imposed by the Secretary of State as a condition of accessing the information identified in subsection (1) of this section.

(7) No action taken pursuant to this section shall be deemed to alter or relinquish any copyright or other proprietary interest or entitlement of the State of Oregon relative to any of the information made available pursuant to subsection (1) of this section. [1995 c.614 §5; 2017 c.518 §5]

Note: 183.365 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.370 Distribution of published rules. The bulletins and compilations may be distributed by the Secretary of State free of charge as provided for the distribution of legislative materials referred to in ORS 171.236. Other copies of the bulletins and compilations shall be distributed by the Secretary of State at a cost determined by the Secretary of State. Any agency may compile and publish its rules or all or part of its rules for purpose of distribution outside of the agency only after it proves to the satisfaction of the Secretary of State that agency publication is necessary. [1957 c.717 §4(4); 1959 c.260 §1; 1969 c.174 §4; 1975 c.759 §8; 1977 c.394 §3]

183.380 [1957 c.717 §4 (5); repealed by 1971 c.734 §21]

183.390 Petitions requesting adoption of rules. (1) An interested person may petition an agency requesting the promulgation, amendment or repeal of a rule. The Attorney General shall prescribe by rule the form for such petitions and the procedure for their submission, consideration and disposition. Not later than 90 days after the date of submission of a petition, the agency either shall deny the petition in writing or shall initiate rulemaking proceedings in accordance with ORS 183.335.

(2) If a petition requesting the amendment or repeal of a rule is submitted to an agency under this section, the agency shall invite public comment upon the rule, and shall specifically request public comment on whether options exist for achieving the rule's substantive goals in a way that reduces the negative economic impact on businesses.

(3) In reviewing a petition subject to subsection (2) of this section, the agency shall consider:

(a) The continued need for the rule;

(b) The nature of complaints or comments received concerning the rule from the public;

(c) The complexity of the rule;

(d) The extent to which the rule overlaps, duplicates or conflicts with other state rules or federal regulations and, to the extent feasible, with local government regulations;

(e) The degree to which technology, economic conditions or other factors have changed in the subject area affected by the rule; and

(f) The statutory citation or legal basis for the rule. [1957 c.717 §5; 1971 c.734 §8; 2003 c.749 §6]

183.400 Judicial determination of validity of rule. (1) The validity of any rule may be determined upon a petition by any person to the Court of Appeals in the manner provided for review of orders in contested cases. The court shall have jurisdiction to review the validity of the rule whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question, but not when the petitioner is a party to an order or a contested case in which the validity of the rule may be determined by a court.

(2) The validity of any applicable rule may also be determined by a court, upon review of an order in any manner provided by law or pursuant to ORS 183.480 or upon enforcement of such rule or order in the manner provided by law.

(3) Judicial review of a rule shall be limited to an examination of:

(a) The rule under review;

(b) The statutory provisions authorizing the rule; and

(c) Copies of all documents necessary to demonstrate compliance with applicable rulemaking procedures.

(4) The court shall declare the rule invalid only if it finds that the rule:

(a) Violates constitutional provisions;

(b) Exceeds the statutory authority of the agency; or

(c) Was adopted without compliance with applicable rulemaking procedures.

(5) In the case of disputed allegations of irregularities in procedure which, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact. The court's

review of the master's findings of fact shall be de novo on the evidence.

(6) The court shall not declare a rule invalid solely because it was adopted without compliance with applicable rulemaking procedures after a period of two years after the date the rule was filed in the office of the Secretary of State, if the agency attempted to comply with those procedures and its failure to do so did not substantially prejudice the interests of the parties. [1957 c.717 §6; 1971 c.734 §9; 1975 c.759 §9; 1979 c.593 §17; 1987 c.861 §3]

183.403 Agency report to Legislative Assembly regarding temporary rules. (1) As used in this section:

(a) "Agency" has the meaning given that term in ORS 183.310.

(b) "Rule" has the meaning given that term in ORS 183.310.

(c) "Statement of need" means the statement described in ORS 183.335 (5)(c).

(2) No later than February 1 of each year, an agency that is subject to ORS 183.335 shall provide a report to the Legislative Assembly, in the manner provided in ORS 192.245, regarding all rules that the agency adopted, amended, repealed or suspended during the preceding 12-month period. The report must include:

(a) The number of rules adopted, amended or repealed in accordance with ORS 183.335 (2) and (3); and

(b) With respect to rules adopted, amended or suspended using the procedure described in ORS 183.335 (5):

(A) The number of rules;

(B) A list of the rules;

(C) A statement of need for each rule and all of the agency's findings that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned; and

(D) For each rule, an explanation of why proceeding under ORS 183.335 (5) was the most appropriate method for adopting, amending or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335 (2) and (3). [2016 c.44 §1]

Note: 183.403 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.405 Agency review of rules; report by Secretary of State. (1) Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:

(a) Whether the rule has had the intended effect;

(b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;

(c) Whether subsequent changes in the law require that the rule be repealed or amended;

(d) Whether there is continued need for the rule; and

(e) What impacts the rule has on small businesses.

(2) Upon request of an agency, the Small Business Rules Advisory Committee established in ORS 183.407 may agree to complete the review and reporting required by this section for the agency.

(3) An agency or the Small Business Rules Advisory Committee shall utilize available information in complying with the requirements of subsection (1) of this section.

(4) An agency or the Small Business Rules Advisory Committee shall provide a report on each review of a rule conducted under this section:

(a) To the Secretary of State;

(b) To the Small Business Rules Advisory Committee, unless the committee completed the review under subsection (2) of this section; and

(c) If the agency appointed an advisory committee pursuant to ORS 183.333 for consideration of a rule subject to the requirements of this section, to the advisory committee.

(5) The provisions of this section do not apply to the amendment or repeal of a rule.

(6) The provisions of this section do not apply to:

(a) Rules adopted to implement court orders or the settlement of civil proceedings;

(b) Rules that adopt federal laws or rules by reference;

(c) Rules adopted to implement legislatively approved fee changes; or

(d) Rules adopted to correct errors or omissions.

(7) The Secretary of State shall compile the reports submitted under this section during each calendar year and submit an annual report to the Legislative Assembly in the manner required by ORS 192.245 no later than February 1 of the following year. [2005 c.807 §3; 2017 c.518 §6; 2018 c.20 §4]

Note: 183.405 was added to and made a part of 183.325 to 183.410 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.407 Small Business Rules Advisory Committee. (1) The Small Business Rules Advisory Committee is established to serve as an advisory committee for agencies adopt-

ing new administrative rules and to review the effectiveness of existing administrative rules.

(2) The committee consists of nine members as follows:

(a) Two representatives of small businesses appointed by the Governor;

(b) Two representatives of small businesses appointed by the President of the Senate;

(c) Two representatives of small businesses appointed by the Speaker of the House;

(d) A representative of small businesses appointed by the Office of Small Business Assistance established in ORS 56.203;

(e) A representative of state agencies appointed by the Director of the Oregon Department of Administrative Services; and

(f) A member who is an expert in the rulemaking process appointed by the State Archivist.

(3) Upon request of an agency, the committee shall serve as the advisory committee or fiscal impact advisory committee for reviewing an agency's proposed administrative rules under ORS 183.333.

(4) Upon request of an agency, the committee may agree to complete the rules review and reporting required by ORS 183.405 in place of the agency.

(5) Members of the committee shall be appointed to serve for terms of two years, but a member serves at the pleasure of the appointing authority. The appointing authority shall appoint a person to fill any vacancy on the committee for the expired term. A member may be reappointed to the committee.

(6) The members of the committee shall elect a chairperson from among the members of the committee. In the absence of a chairperson, the member appointed by the State Archivist shall serve as acting chairperson.

(7) A majority of the members of the committee constitutes a quorum for the transaction of business.

(8) The committee shall meet upon the call of the chairperson or upon a request of a majority of the members of the committee. The committee may meet by phone or video conference with at least 24 hours' public notice.

(9) The State Archives shall provide administrative support to the committee.

(10) Members of the committee are not entitled to compensation, but may be reimbursed from funds available to the State Archives for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. [2018 c.20 §2]

Note: 183.407 was added to and made a part of 183.325 to 183.410 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.410 Agency determination of applicability of rule or statute to petitioner; effect; judicial review. On petition of any interested person, any agency may in its discretion issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it. A declaratory ruling is binding between the agency and the petitioner on the state of facts alleged, unless it is altered or set aside by a court. However, the agency may, where the ruling is adverse to the petitioner, review the ruling and alter it if requested by the petitioner. Binding rulings provided by this section are subject to review in the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases. The Attorney General shall prescribe by rule the form for such petitions and the procedure for their submission, consideration and disposition. The petitioner shall have the right to submit briefs and present oral argument at any declaratory ruling proceeding held pursuant to this section. [1957 c.717 §7; 1971 c.734 §10; 1973 c.612 §5]

(Contested Cases)

183.411 Delegation of final order authority. Unless otherwise provided by law, an agency may delegate authority to enter a final order in a proceeding or class of proceedings to an officer or employee of the agency, or to a class of officers or employees of the agency. A delegation of authority under this section must be made in writing before the issuance of any order pursuant to the delegation and must be retained in the agency's records. [2007 c.116 §2]

Note: 183.411 was added to and made a part of ORS chapter 183 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.413 Notice to parties before hearing of rights and procedure; failure to provide notice. (1) The Legislative Assembly finds that parties to a contested case hearing have a right to be informed as to the procedures by which contested cases are heard by state agencies, their rights in hearings before state agencies, the import and effect of hearings before state agencies and their rights and remedies with respect to actions taken by state agencies. Accordingly, it is the purpose of subsections (2) and (3) of this section to set forth certain requirements of state agencies so that parties to contested case

hearings shall be fully informed as to these matters when exercising their rights before state agencies.

(2) Prior to the commencement of a contested case hearing before any agency including those agencies identified in ORS 183.315, the agency shall serve personally or by mail a written notice to each party to the hearing that includes the following:

(a) The time and place of the hearing.

(b) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A statement that generally identifies the issues to be considered at the hearing.

(d) A statement indicating that the party may be represented by counsel and that legal aid organizations may be able to assist a party with limited financial resources.

(e) A statement that the party has the right to respond to all issues properly before the presiding officer and present evidence and witnesses on those issues.

(f) A statement indicating whether discovery is permitted and, if so, how discovery may be requested.

(g) A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made and an explanation of the burdens of proof or burdens of going forward with the evidence.

(h) Whether a record will be made of the proceedings and the manner of making the record and its availability to the parties.

(i) The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the determination or order of the agency.

(j) Whether an attorney will represent the agency in the matters to be heard and whether the parties ordinarily and customarily are represented by an attorney.

(k) The title and function of the person presiding at the hearing with respect to the decision process, including, but not limited to, the manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed, the effect of that person's determination, who makes the final determination on behalf of the agency, whether the person presiding at the hearing is or is not an employee, officer or other representative of the agency and whether that person has the authority to make a final independent determination.

(L) In the event a party is not represented by an attorney, whether the party may during the course of proceedings request a recess if at that point the party determines that representation by an attorney is necessary to the protection of the party's rights.

(m) Whether there exists an opportunity for an adjournment at the end of the hearing if the party then determines that additional evidence should be brought to the attention of the agency and the hearing reopened.

(n) Whether there exists an opportunity after the hearing and prior to the final determination or order of the agency to review and object to any proposed findings of fact, conclusions of law, summary of evidence or recommendations of the officer presiding at the hearing.

(o) A description of the appeal process from the determination or order of the agency.

(p) A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website.

(3) The failure of an agency to give notice of any item specified in subsection (2) of this section does not invalidate any determination or order of the agency unless upon an appeal from or review of the determination or order a court finds that the failure affects the substantial rights of the complaining party. In the event of such a finding, the court shall remand the matter to the agency for a reopening of the hearing and shall direct the agency as to what steps it shall take to remedy the prejudice to the rights of the complaining party. [1979 c.593 §§37,38,39; 1995 c.79 §63; 2007 c.288 §1; 2013 c.295 §1]

183.415 Notice of right to hearing. (1) The Legislative Assembly finds that persons affected by actions taken by state agencies have a right to be informed of their rights and remedies with respect to the actions.

(2) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice, served personally or by registered or certified mail.

(3) Notice under this section must include:

(a) A statement of the party's right to hearing, with a description of the procedure and time to request a hearing, or a statement of the time and place of the hearing;

(b) A statement of the authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved;

(d) A short and plain statement of the matters asserted or charged;

(e) A statement indicating whether and under what circumstances an order by default may be entered; and

(f) A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website. [1971 c.734 §13; 1979 c.593 §18; 1985 c.757 §1; 1997 c.837 §2; 1999 c.849 §§27,28; 2003 c.75 §29; 2007 c.288 §2; 2013 c.295 §3]

183.417 Procedure in contested case hearing. (1) In a contested case proceeding, the parties may elect to be represented by counsel and to respond and present evidence and argument on all issues properly before the presiding officer in the proceeding.

(2) Agencies may adopt rules of procedure governing participation in contested case proceedings by persons appearing as limited parties.

(3)(a) Unless prohibited by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. Informal settlement may be made in license revocation proceedings by written agreement of the parties and the agency consenting to a suspension, fine or other form of intermediate sanction.

(b) Any informal disposition of a contested case, other than an informal disposition by default, must be in writing and signed by the party or parties to the contested case. The agency shall incorporate that disposition into a final order. An order under this paragraph is not subject to ORS 183.470. The agency shall deliver or mail a copy of the order to each party and to the attorney of record if the party is represented. An order that incorporates the informal disposition is a final order in a contested case, but is not subject to judicial review. A party may petition the agency to set aside a final order that incorporates the informal disposition on the ground that the informal disposition was obtained by fraud or duress.

(4) An order adverse to a party may be issued upon default only if a prima facie case is made on the record. The record on a default order includes all materials submitted by the party. The record on a default order may be made at the time of issuance of the order. If the record on the default order consists solely of an application and other materials submitted by the party, the agency shall so note in the order.

(5) At the commencement of a contested case hearing, the officer presiding at the hearing shall explain the issues involved in the hearing and the matters that the parties must either prove or disprove.

(6) Testimony at a contested case hearing shall be taken upon oath or affirmation of the witness. The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

(7) The officer presiding at the hearing shall place on the record a statement of the substance of any written or oral ex parte communication on a fact in issue made to the officer during the pendency of the proceeding and notify the parties of the communication and of their right to rebut the communication. If an ex parte communication is made to an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605, the administrative law judge must comply with ORS 183.685.

(8) The officer presiding at the hearing shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the presiding officer in the case and the correct application of the law to those facts.

(9) The record in a contested case shall include:

(a) All pleadings, motions and intermediate rulings.

(b) Evidence received or considered.

(c) Stipulations.

(d) A statement of matters officially noticed.

(e) Questions and offers of proof, objections and rulings thereon.

(f) A statement of any ex parte communication that must be disclosed under subsection (7) of this section and that was made to the officer presiding at the hearing.

(g) Proposed findings and exceptions.

(h) Any proposed, intermediate or final order prepared by the agency or an administrative law judge.

(10) A verbatim oral, written or mechanical record shall be made of all motions, rulings and testimony in a contested case proceeding. The record need not be transcribed unless requested for purposes of rehearing or court review. The agency may

charge the party requesting transcription the cost of a copy of transcription, unless the party files an appropriate affidavit of indigency. Upon petition, a court having jurisdiction to review under ORS 183.480 may reduce or eliminate the charge upon finding that it is equitable to do so, or that matters of general interest would be determined by review of the order of the agency. [2007 c.288 §4]

183.418 [1973 c.386 §6; 1989 c.224 §11; 1991 c.750 §5; repealed by 1999 c.1041 §9]

183.420 [1957 c.717 §8 (1); repealed by 1971 c.734 §21]

183.421 [1991 c.750 §4; repealed by 1999 c.1041 §9]

183.425 Depositions or subpoena of material witness; discovery. (1) On petition of any party to a contested case, or upon the agency's own motion, the agency may order that the testimony of any material witness may be taken by deposition in the manner prescribed by law for depositions in civil actions. Depositions may also be taken by the use of audio or audio-visual recordings. The petition shall set forth the name and address of the witness whose testimony is desired, a showing of the materiality of the testimony of the witness, and a request for an order that the testimony of such witness be taken before an officer named in the petition for that purpose. If the witness resides in this state and is unwilling to appear, the agency may issue a subpoena as provided in ORS 183.440, requiring the appearance of the witness before such officer.

(2) An agency may, by rule, prescribe other methods of discovery which may be used in proceedings before the agency. [1971 c.734 §14; 1975 c.759 §11; 1979 c.593 §19; 1997 c.837 §6]

183.430 Hearing on refusal to renew license; exceptions. (1) In the case of any license which must be periodically renewed, where the licensee has made timely application for renewal in accordance with the rules of the agency, such license shall not be deemed to expire, despite any stated expiration date thereon, until the agency concerned has issued a formal order of grant or denial of such renewal. In case an agency proposes to refuse to renew such license, upon demand of the licensee, the agency must grant hearing as provided by this chapter before issuance of order of refusal to renew. This subsection does not apply to any emergency or temporary permit or license.

(2) In any case where the agency finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the agency may suspend or refuse to renew a license without hearing, but if the licensee demands a hearing within 90 days after the date of notice to the licensee of such suspension or refusal to renew, then a hearing must be granted to the licensee as soon as practicable after such demand, and the agency shall issue an order pursuant to such hearing as required by this chapter confirming, altering or revoking its earlier order. Such a hearing need not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee. [1957 c.717 §8 (3), (4); 1965 c.212 §1; 1971 c.734 §11]

183.435 Period allowed to request hearing for license refusal on grounds other than test or inspection results. When an agency refuses to issue a license required to pursue any commercial activity, trade, occupation or profession if the refusal is based on grounds other than the results of a test or inspection that agency shall grant the person requesting the license 60 days from notification of the refusal to request a hearing. [Formerly 670.285]

183.440 Subpoenas in contested cases. (1) An agency may issue subpoenas on its own motion in a contested case. In addition, an agency or hearing officer in a contested case may issue subpoenas upon the request of a party to a contested case upon a showing of general relevance and reasonable scope of the evidence sought. A party entitled to have witnesses on behalf of the party may have subpoenas issued by an attorney of record of the party, subscribed by the signature of the attorney. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the agency, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2).

(2) If any person fails to comply with any subpoena so issued or any party or witness refuses to testify on any matters on which the party or witness may be lawfully interrogated, the judge of the circuit court of any county, on the application of the hearing officer, the agency or the party requesting the issuance of or issuing the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1957 c.717 §8 (2); 1971 c.734 §12; 1979 c.593 §20; 1981 c.174 §4; 1989 c.980 §10a; 1997 c.837 §3; 1999 c.849 §30]

183.445 Subpoena by agency or attorney of record of party when agency not subject to ORS 183.440. (1) In any proceeding before an agency not subject to ORS 183.440 in which a party is entitled to have subpoenas issued for the appearance of witnesses on behalf of the party, a subpoena may be issued by an attorney of record of the

party, subscribed by the signature of the attorney. A subpoena issued by an attorney of record may be enforced in the same manner as a subpoena issued by the agency.

(2) In any proceeding before an agency not subject to ORS 183.440 in which a party is entitled to have subpoenas issued by the agency to compel the appearance of witnesses on behalf of the party, the agency may issue subpoenas on its own motion. [1981 c.174 §6; 1997 c.837 §4; 1999 c.849 §32]

183.450 Evidence in contested cases. In contested cases:

(1) Irrelevant, immaterial or unduly repetitious evidence shall be excluded but erroneous rulings on evidence shall not preclude agency action on the record unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible. Agencies and hearing officers shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

(2) All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in subsection (4) of this section no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

(3) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence. Persons appearing in a limited party status shall participate in the manner and to the extent prescribed by rule of the agency.

(4) The hearing officer and agency may take notice of judicially cognizable facts, and may take official notice of general, technical or scientific facts within the specialized knowledge of the hearing officer or agency. Parties shall be notified at any time during the proceeding but in any event prior to the final decision of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed. The hearing officer and agency may utilize the hearing officer's or agency's experience, technical competence and specialized knowledge in the evaluation of the evidence presented.

(5) No sanction shall be imposed or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party, and as supported by, and in accordance with, reliable, probative and substantial evidence. [1957 c.717 §9; 1971 c.734 §15; 1975 c.759 §12; 1977 c.798 §3; 1979 c.593 §21; 1987 c.833 §1; 1995 c.272 §5; 1997 c.391 §1; 1997 c.801 §76; 1999 c.448 §5; 1999 c.849 §34]

183.452 Representation of agencies at contested case hearings. (1) Agencies may, at their discretion, be represented at contested case hearings by the Attorney General.

(2) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, and unless otherwise authorized by another law, an agency may be represented at contested case hearings by an officer or employee of the agency if:

(a) The Attorney General has consented to the representation of the agency by an agency representative in the particular hearing or in the class of hearings that includes the particular hearing; and

(b) The agency, by rule, has authorized an agency representative to appear on its behalf in the particular type of hearing being conducted.

(3) An agency representative acting under the provisions of this section may not give legal advice to an agency, and may not present legal argument in contested case hearings, except to the extent authorized by subsection (4) of this section.

(4) The officer presiding at a contested case hearing in which an agency representative appears under the provisions of this section may allow the agency representative to present evidence, examine and cross-examine witnesses, and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing.

(5) Upon judicial review, no limitation imposed under this section on an agency representative is the basis for reversal or remand of agency action unless the limitation resulted in substantial prejudice to a party.

(6) The Attorney General may prepare model rules for agency representatives authorized under this section. [1999 c.448 §3]

Note: 183.452 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.453 Representation of Oregon Health Authority and Department of Human Services at contested case hearings. The Oregon Health Authority and the Department of Human Services may be represented at contested case hearings by an officer or employee of either the authority or the department, subject to the requirements of ORS 183.452. [2013 c.14 §1]

Note: 183.453 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.455 [1987 c.259 §3; repealed by 1999 c.448 §10]

183.457 Representation of persons other than agencies participating in contested case hearings. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by another law, a person participating in a contested case hearing conducted by an agency described in this subsection may be represented by an attorney or by an authorized representative subject to the provisions of subsection (2) of this section. The Attorney General shall prepare model rules for proceedings with lay representation that do not have the effect of precluding lay representation. No rule adopted by a state agency shall have the effect of precluding lay representation. The agencies before which an authorized representative may appear are:

(a) The State Landscape Contractors Board in the administration of the Landscape Contractors Law.

(b) The State Department of Energy and the Energy Facility Siting Council.

(c) The Environmental Quality Commission and the Department of Environmental Quality.

(d) The Department of Consumer and Business Services for proceedings in which an insured appears pursuant to ORS 737.505.

(e) The Department of Consumer and Business Services and any other agency for the purpose of proceedings to enforce the state building code, as defined by ORS 455.010.

(f) The State Fire Marshal in the Department of State Police.

(g) The Department of State Lands for proceedings regarding the issuance or denial of fill or removal permits under ORS 196.800 to 196.825.

(h) The Public Utility Commission.

(i) The Water Resources Commission and the Water Resources Department.

(j) The Land Conservation and Development Commission and the Department of Land Conservation and Development.

(k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

(L) The Bureau of Labor and Industries.

(2) A person participating in a contested case hearing as provided in subsection (1) of this section may appear by an authorized representative if:

(a) The agency conducting the contested case hearing has determined that appearance of such a person by an authorized representative will not hinder the orderly and timely development of the record in the type of contested case hearing being conducted;

(b) The agency conducting the contested case hearing allows, by rule, authorized representatives to appear on behalf of such participants in the type of contested case hearing being conducted; and

(c) The officer presiding at the contested case hearing may exercise discretion to limit an authorized representative's presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments to ensure the orderly and timely development of the hearing record, and shall not allow an authorized representative to present legal arguments except to the extent authorized under subsection (3) of this section.

(3) The officer presiding at a contested case hearing in which an authorized representative appears under the provisions of this section may allow the authorized representative to present evidence, examine and cross-examine witnesses, and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing.

(4) Upon judicial review, no limitation imposed by an agency presiding officer on the participation of an authorized representative shall be the basis for reversal or remand of agency action unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the agency action.

(5) For the purposes of this section, "authorized representative" means a member of a participating partnership, an authorized officer or regular employee of a participating corporation, association or organized group, or an authorized officer or employee of a participating governmental authority other

than a state agency. [1987 c.833 §3; 1989 c.453 §2; 1993 c.186 §4; 1995 c.102 §1; 1999 c.448 §1; 1999 c.599 §1]

Note: 183.457 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.458 Nonattorney and out-of-state attorney representation of parties in certain contested case hearings. (1) Notwithstanding any other provision of law, in any contested case hearing before a state agency involving child support, public assistance as defined in ORS 411.010, medical assistance as defined in ORS 414.025 or the right to be free from potentially unusual or hazardous treatment procedures under ORS 426.385 (3), a party may be represented by any of the following persons:

(a) An attorney licensed to practice law in any state who is an employee of or contracts with a nonprofit legal services program that receives funding pursuant to ORS 9.572.

(b) An authorized representative who is an employee of a nonprofit legal services program that receives funding pursuant to ORS 9.572. The authorized representative must be supervised by an attorney also employed by a legal services program.

(c) An authorized representative who is an employee of the system described in ORS 192.517 (1). The authorized representative must be supervised by an attorney also employed by the system.

(2) In any contested case hearing before a state agency involving child support, a party may be represented by a law student who is:

(a) Handling the child support matter as part of a law school clinical program in which the student is enrolled; and

(b) Supervised by an attorney employed by the program.

(3) In any contested case hearing before a state agency involving an applicant for or recipient of medical assistance, the claimant may be represented by a relative, friend or any other person of the claimant's choosing.

(4) A person authorized to represent a party under this section may present evidence in the proceeding, examine and cross-examine witnesses and present factual and legal arguments in the proceeding. [1999 c.448 §4; 2003 c.14 §86; 2005 c.498 §6; 2009 c.49 §1; 2013 c.688 §25]

Note: 183.458 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.459 Representation of home care worker by labor union representative. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, a home care worker or personal support worker, as defined in ORS 410.600, who is a party in a contested case hearing conducted by the Department of Human Services may be represented in the hearing by a labor union representative.

(2) The hearing officer at a contested case hearing in which a labor union representative appears under the provisions of this section shall allow the representative to present evidence, examine and cross-examine witnesses and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing. [2009 c.424 §2; 2018 c.75 §9]

Note: 183.459 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.460 Examination of evidence by agency. Whenever in a contested case a majority of the officials of the agency who are to render the final order have not heard the case or considered the record, the order, if adverse to a party other than the agency itself, shall not be made until a proposed order, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials who are to render the decision. [1957 c.717 §10; 1971 c.734 §16; 1975 c.759 §13]

183.462 Agency statement of ex parte communications; notice. The agency shall place on the record a statement of the substance of any written or oral ex parte communications on a fact in issue made to the agency during its review of a contested case. The agency shall notify all parties of such communications and of their right to rebut the substance of the ex parte communications on the record. [1979 c.593 §36c]

183.464 Proposed order by hearing officer; amendment by agency; exemptions. (1) Except as otherwise provided in subsections (1) to (4) of this section, unless a hearing officer is authorized or required by law or agency rule to issue a final order, the hearing officer shall prepare and serve on the agency and all parties to a contested case hearing a proposed order, including recommended findings of fact and conclusions of law. The proposed order shall become final after the 30th day following the date of ser-

vice of the proposed order, unless the agency within that period issues an amended order.

(2) An agency may by rule specify a period of time after which a proposed order will become final that is different from that specified in subsection (1) of this section.

(3) If an agency determines that additional time will be necessary to allow the agency adequately to review a proposed order in a contested case, the agency may extend the time after which the proposed order will become final by a specified period of time. The agency shall notify the parties to the hearing of the period of extension.

(4) Subsections (1) to (4) of this section do not apply to the Public Utility Commission or the Energy Facility Siting Council.

(5) The Governor may exempt any agency or any class of contested case hearings before an agency from the requirements in whole or part of subsections (1) to (4) of this section by executive order. The executive order shall contain a statement of the reasons for the exemption. [1979 c.593 §§36,36b; 1995 c.79 §64; 2001 c.104 §64]

183.470 Orders in contested cases. In a contested case:

(1) Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

(2) A final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the agency's order.

(3) The agency shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

(4) Every final order shall include a citation of the statutes under which the order may be appealed. [1957 c.717 §11; 1971 c.734 §17; 1979 c.593 §22]

183.471 Preservation of orders in electronic format; fees. (1) When an agency issues a final order in a contested case, the agency shall maintain the final order in a digital format that:

(a) Identifies the final order by the date it was issued;

(b) Is suitable for indexing and searching; and

(c) Preserves the textual attributes of the document, including the manner in which the document is paginated and any boldfaced, italicized or underlined writing in the document.

(2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its designee, with electronic copies of final orders issued by the agency in contested cases. The request must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an electronic copy of all final orders identified in the request.

(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests submitted under this section in a calendar year. For any subsequent request, an agency may impose a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with the request.

(4) For purposes of this section, a final order entered in a contested case by an administrative law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the administrative law judge to conduct the hearing.

(5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to final orders issued in contested cases by:

(a) The Department of Revenue;

(b) The State Board of Parole and Post-Prison Supervision;

(c) The Department of Corrections;

(d) The Employment Relations Board;

(e) The Public Utility Commission of Oregon;

(f) The Oregon Health Authority;

(g) The Land Conservation and Development Commission;

(h) The Land Use Board of Appeals;

(i) The Division of Child Support of the Department of Justice;

(j) The Department of Transportation, if the final order relates to the suspension, revocation or cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or to the assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;

(k) The Employment Department or the Employment Appeals Board, if the final order relates to benefits as defined in ORS 657.010;

(L) The Employment Department, if the final order relates to an assessment of unemployment tax for which a hearing was not held; or

(m) The Department of Human Services, if the final order was not related to licensing or certification. [2013 c.156 §2]

Note: 183.471 was added to and made a part of ORS chapter 183 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Judicial Review)

183.480 Judicial review of agency orders. (1) Except as provided in ORS 183.417 (3)(b), any person adversely affected or aggrieved by an order or any party to an agency proceeding is entitled to judicial review of a final order, whether such order is affirmative or negative in form. A petition for rehearing or reconsideration need not be filed as a condition of judicial review unless specifically otherwise provided by statute or agency rule.

(2) Judicial review of final orders of agencies shall be solely as provided by ORS 183.482, 183.484, 183.490 and 183.500.

(3) No action or suit shall be maintained as to the validity of any agency order except a final order as provided in this section and ORS 183.482, 183.484, 183.490 and 183.500 or except upon showing that the agency is proceeding without probable cause, or that the party will suffer substantial and irreparable harm if interlocutory relief is not granted.

(4) Judicial review of orders issued pursuant to ORS 813.410 shall be as provided by ORS 813.410. [1957 c.717 §12; 1963 c.449 §1; 1971 c.734 §18; 1975 c.759 §14; 1979 c.593 §23; 1983 c.338 §901; 1985 c.757 §4; 1997 c.837 §5; 2007 c.288 §11]

183.482 Jurisdiction for review of contested cases; procedure; scope of court authority. (1) Jurisdiction for judicial review of contested cases is conferred upon the Court of Appeals. Proceedings for review shall be instituted by filing a petition in the Court of Appeals. The petition shall be filed within 60 days only following the date the order upon which the petition is based is served unless otherwise provided by statute. If a petition for rehearing has been filed, then the petition for review shall be filed within 60 days only following the date the order denying the petition for rehearing is served. If the agency does not otherwise act, a petition for rehearing or reconsideration shall be deemed denied the 60th day following the date the petition was filed, and in such cases, petition for judicial review shall be filed within 60 days only following such date. Date of service shall be the date on which the agency delivered or mailed its order in accordance with ORS 183.470.

(2) The petition shall state the nature of the order the petitioner desires reviewed, and shall state whether the petitioner was a party to the administrative proceeding, was denied status as a party or is seeking judicial review as a person adversely affected or aggrieved by the agency order. In the latter case, the petitioner shall, by supporting affidavit, state the facts showing how the petitioner is adversely affected or aggrieved by the agency order. Before deciding the issues raised by the petition for review, the Court of Appeals shall decide, from facts set forth in the affidavit, whether or not the petitioner is entitled to petition as an adversely affected or an aggrieved person. Copies of the petition shall be served by registered or certified mail upon the agency, and all other parties of record in the agency proceeding.

(3)(a) The filing of the petition shall not stay enforcement of the agency order, but the agency may do so upon a showing of:

(A) Irreparable injury to the petitioner; and

(B) A colorable claim of error in the order.

(b) When a petitioner makes the showing required by paragraph (a) of this subsection, the agency shall grant the stay unless the agency determines that substantial public harm will result if the order is stayed. If the agency denies the stay, the denial shall be in writing and shall specifically state the substantial public harm that would result from the granting of the stay.

(c) When the agency grants a stay, the agency may impose such reasonable conditions as the giving of a bond, irrevocable letter of credit or other undertaking and that the petitioner file all documents necessary to bring the matter to issue before the Court of Appeals within specified reasonable periods of time.

(d) Agency denial of a motion for stay is subject to review by the Court of Appeals under such rules as the court may establish.

(4) Within 30 days after service of the petition, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review, but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable. Except as specifically provided in this subsection, the cost of the record shall not be taxed to the petitioner or any intervening party. However, the court may tax such costs and the cost of agency transcription of record to a party filing a frivolous petition for review.

(5) If, on review of a contested case, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good and substantial reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings and order by reason of the additional evidence and shall, within a time to be fixed by the court, file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or orders, or its certificate that the agency elects to stand on its original findings and order, as the case may be.

(6) At any time subsequent to the filing of the petition for review and prior to the date set for hearing the agency may withdraw its order for purposes of reconsideration. If an agency withdraws an order for purposes of reconsideration, the agency shall, within such time as the court may allow, affirm, modify or reverse its order. If the petitioner is dissatisfied with the agency action after withdrawal for purposes of reconsideration, the petitioner may refile the petition for review and the review shall proceed upon the revised order. An amended petition for review shall not be required if the agency, on reconsideration, affirms the order or modifies the order with only minor changes. If an agency withdraws an order for purposes of reconsideration and modifies or reverses the order in favor of the petitioner, the court shall allow the petitioner costs, but not attorney fees, to be paid from funds available to the agency.

(7) Review of a contested case shall be confined to the record, and the court shall not substitute its judgment for that of the agency as to any issue of fact or agency discretion. In the case of disputed allegations of irregularities in procedure before the agency not shown in the record which, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact upon them. The court shall remand the order for further agency action if the court finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure, including a failure by the presiding officer to comply with the requirements of ORS 183.417 (8).

(8)(a) The court may affirm, reverse or remand the order. If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, the court shall:

(A) Set aside or modify the order; or

(B) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(b) The court shall remand the order to the agency if the court finds the agency's exercise of discretion to be:

(A) Outside the range of discretion delegated to the agency by law;

(B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency; or

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if the court finds that the order is not supported by substantial evidence in the record. Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding. [1975 c.759 §15; 1977 c.798 §4; 1979 c.593 §24; 1985 c.757 §2; 1989 c.453 §1; 1991 c.331 §44; 2007 c.659 §§2,5]

183.484 Jurisdiction for review of orders other than contested cases; procedure; scope of court authority. (1) Jurisdiction for judicial review of orders other than contested cases is conferred upon the Circuit Court for Marion County and upon the circuit court for the county in which the petitioner resides or has a principal business office. Proceedings for review under this section shall be instituted by filing a petition in the Circuit Court for Marion County or the circuit court for the county in which the petitioner resides or has a principal business office.

(2) Petitions for review shall be filed within 60 days only following the date the order is served, or if a petition for reconsideration or rehearing has been filed, then within 60 days only following the date the order denying such petition is served. If the agency does not otherwise act, a petition for rehearing or reconsideration shall be deemed denied the 60th day following the date the petition was filed, and in such case petition for judicial review shall be filed within 60 days only following such date. Date of service shall be the date on which the agency delivered or mailed its order in accordance with ORS 183.470.

(3) The petition shall state the nature of the petitioner's interest, the facts showing how the petitioner is adversely affected or

aggrieved by the agency order and the ground or grounds upon which the petitioner contends the order should be reversed or remanded. The review shall proceed and be conducted by the court without a jury.

(4) At any time subsequent to the filing of the petition for review and prior to the date set for hearing, the agency may withdraw its order for purposes of reconsideration. If an agency withdraws an order for purposes of reconsideration, it shall, within such time as the court may allow, affirm, modify or reverse its order. If the petitioner is dissatisfied with the agency action after withdrawal for purposes of reconsideration, the petitioner may refile the petition for review and the review shall proceed upon the revised order. An amended petition for review shall not be required if the agency, on reconsideration, affirms the order or modifies the order with only minor changes. If an agency withdraws an order for purposes of reconsideration and modifies or reverses the order in favor of the petitioner, the court shall allow the petitioner costs, but not attorney fees, to be paid from funds available to the agency.

(5)(a) The court may affirm, reverse or remand the order. If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(A) Set aside or modify the order; or

(B) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(b) The court shall remand the order to the agency if it finds the agency's exercise of discretion to be:

(A) Outside the range of discretion delegated to the agency by law;

(B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency; or

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if it finds that the order is not supported by substantial evidence in the record. Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding.

(6) In the case of reversal the court shall make special findings of fact based upon the evidence in the record and conclusions of law indicating clearly all aspects in which the agency's order is erroneous. [1975 c.759 §16; 1979 c.284 §121; 1979 c.593 §25a; 1985 c.757 §3; 1999 c.113 §1]

183.485 Decision of court on review of contested case. (1) The court having jurisdiction for judicial review of contested cases shall direct its decision, including its judgment, to the agency issuing the order being reviewed and may direct that its judgment be delivered to the circuit court for any county designated by the prevailing party for entry in the circuit court's register.

(2) Upon receipt of the court's decision, including the judgment, the clerk of the circuit court shall enter a judgment in the register of the court pursuant to the direction of the court to which the appeal is made. [1973 c.612 §7; 1981 c.178 §11; 1985 c.540 §39; 2003 c.576 §193]

183.486 Form and scope of decision of reviewing court. (1) The reviewing court's decision under ORS 183.482 or 183.484 may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

(a) Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings or decide the rights, privileges, obligations, requirements or procedures at issue between the parties; and

(b) Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(2) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(3) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency action. [1979 c.593 §27]

183.490 Agency may be compelled to act. The court may, upon petition as described in ORS 183.484, compel an agency to act where it has unlawfully refused to act or make a decision or unreasonably delayed taking action or making a decision. [1957 c.717 §13; 1979 c.593 §28]

183.495 [1975 c.759 §16a; repealed by 1985 c.757 §7]

183.497 Awarding costs and attorney fees when finding for petitioner. (1) In a judicial proceeding designated under subsection (2) of this section the court:

(a) May, in its discretion, allow a petitioner reasonable attorney fees and costs if the court finds in favor of the petitioner.

(b) Shall allow a petitioner reasonable attorney fees and costs if the court finds in favor of the petitioner and determines that the state agency acted without a reasonable basis in fact or in law; but the court may withhold all or part of the attorney fees from any allowance to a petitioner if the court finds that the state agency has proved that its action was substantially justified or that special circumstances exist that make the allowance of all or part of the attorney fees unjust.

(2) The provisions of subsection (1) of this section apply to an administrative or judicial proceeding brought by a petitioner against a state agency, as defined in ORS 291.002, for:

(a) Judicial review of a final order as provided in ORS 183.480 to 183.484;

(b) Judicial review of a declaratory ruling provided in ORS 183.410; or

(c) A judicial determination of the validity of a rule as provided in ORS 183.400.

(3) Amounts allowed under this section for reasonable attorney fees and costs shall be paid from funds available to the state agency whose final order, declaratory ruling or rule was reviewed by the court. [1981 c.871 §1; 1985 c.757 §5]

Note: 183.497 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Appeals From Circuit Courts)

183.500 Appeals. Any party to the proceedings before the circuit court may appeal from the judgment of that court to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals from the circuit court in suits in equity. [1957 c.717 §14; 1969 c.198 §76; 2003 c.576 §394]

(Alternative Dispute Resolution)

183.502 Authority of agencies to use alternative means of dispute resolution; model rules; amendment of agreements and forms; agency alternative dispute resolution programs. (1) Unless otherwise prohibited by law, agencies may use alternative means of dispute resolution in rulemaking proceedings, contested case proceedings, judicial proceedings in which the agency is a party, and any other decision-making process in which conflicts may arise. The alternative means of dispute resolution may be arbitration, mediation or any other collaborative problem-solving process designed to encourage parties to work together to develop mutually agreeable solutions to disputes. Use of alternative means of dispute resolution by an agency does not affect the application of ORS 192.311 to 192.478 to the agency, or the application of ORS 192.610 to 192.690 to the agency.

(2) An agency that elects to utilize alternative means of dispute resolution shall inform and may consult with the Mark O. Hatfield School of Government, the Department of Justice and the Oregon Department of Administrative Services in developing a policy or program for implementation of alternative means of dispute resolution.

(3) The Attorney General, in consultation with the Mark O. Hatfield School of Government and the Oregon Department of Administrative Services, may develop for agencies model rules for the implementation of alternative means of dispute resolution. An agency may adopt all or part of the model rules by reference without complying with the rulemaking procedures of ORS 183.325 to 183.410. Notice of the adoption of all or part of the model rules must be filed by the agency with the Secretary of State in the manner provided by ORS 183.355 for the filing of rules.

(4) When an agency reviews the standard agreements, forms for contracts and forms for applying for grants or other assistance used by the agency, the agency shall determine whether the agreements and forms should be amended to authorize and encourage the use of alternative means of dispute resolution in disputes that arise under the agreement, contract or application.

(5) The Department of Justice, the Mark O. Hatfield School of Government, the Oregon Department of Administrative Services and the Governor shall collaborate to increase the use of alternative dispute resolution to resolve disputes involving the State of Oregon by:

(a) Assisting agencies to develop a policy for alternative means of dispute resolution;

(b) Assisting agencies to develop or expand flexible and diverse agency programs that provide alternative means of dispute resolution; and

(c) Providing assistance in the efficient and effective selection of mediators or facilitators.

(6)(a) The Mark O. Hatfield School of Government, the Oregon Department of Administrative Services and the Department of Justice shall work cooperatively in designing the program under ORS 36.179 that is intended to provide services to, apply to or involve any state agency.

(b) The Mark O. Hatfield School of Government, the Oregon Department of Administrative Services and the Department of Justice shall enter into an interagency agreement that includes, but is not limited

to, provisions on appropriate roles, reporting requirements and coordination of services provided to state agencies by the Mark O. Hatfield School of Government pursuant to ORS 36.179.

(c) Before providing dispute resolution services in a specific matter to a state agency under ORS 36.179, the Mark O. Hatfield School of Government shall notify the Department of Justice of any proposal to provide such services.

(7) Agencies with alternative dispute resolution programs shall seek to identify cases appropriate for mediation and other means of alternative dispute resolution and to design systems and procedures to resolve those cases.

(8) The purpose of the agency alternative dispute resolution programs is to:

(a) Increase agency efficiency;

(b) Increase public and agency satisfaction with the process and results of dispute resolution; and

(c) Decrease the cost of resolving disputes.

(9) An agency may use the services of an employee of another agency or of the federal government to serve as a mediator or facilitator, and may provide the services of an agency employee to another agency or to the federal government to serve as a mediator or facilitator. An agency may enter into an agreement with another agency or with the federal government to determine reimbursement for services of an employee acting as a mediator or facilitator under the provisions of this subsection. This subsection does not apply to mediation under ORS 243.650 to 243.806. [1993 c.647 §2; 1995 c.515 §2; 1997 c.706 §5; 1997 c.801 §42; 1997 c.837 §7; 2001 c.581 §2; 2003 c.791 §§27,27a; 2005 c.334 §§1,2; 2005 c.817 §6]

Note: 183.502 was added to and made a part of ORS chapter 183 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.510 [1957 c.717 §16; repealed by 1971 c.734 §21]

(Housing Cost Impact Statement)

183.530 Housing cost impact statement required for certain proposed rules. A housing cost impact statement shall be prepared upon the proposal for adoption or repeal of any rule or any amendment to an existing rule by:

(1) The Oregon Housing Stability Council;

(2) A building codes division of the Department of Consumer and Business Services or any board associated with the department with regard to rules adopted under ORS 455.610 to 455.630;

(3) The Land Conservation and Development Commission;

(4) The Environmental Quality Commission;

(5) The Construction Contractors Board;

(6) The Occupational Safety and Health Division of the Department of Consumer and Business Services; or

(7) The State Department of Energy. [1995 c.652 §2; 2015 c.180 §39]

Note: 183.530 to 183.538 were added to and made a part of ORS chapter 183 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.534 Housing cost impact statement described; rules. (1) A housing cost impact statement is an estimate of the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel. The Oregon Housing Stability Council shall adopt rules prescribing the form to be used when preparing the estimate and other such rules necessary to the implementation of this section and ORS 183.530 and 183.538.

(2) A housing cost impact statement:

(a) For an agency listed in ORS 183.530 shall be incorporated in the:

(A) Fiscal impact statement required by ORS 183.335 (2)(b)(E) for permanent rule adoption; or

(B) Statements required by ORS 183.335 (5) for temporary rule adoption.

(b) Shall not be required for the adoption of any procedural rule by an agency listed in ORS 183.530. [1995 c.652 §3; 1997 c.249 §54; 2015 c.180 §40]

Note: See note under 183.530.

183.538 Effect of failure to prepare housing cost impact statement; judicial review. (1) Notwithstanding ORS 183.335 (12), 183.400 (4) or any other provision of law, the failure to prepare a housing cost impact statement shall not affect the validity or effective date of any rule or ordinance or any amendment to a rule or ordinance.

(2) If a rule or ordinance or any amendment to a rule or ordinance is challenged based on the failure to prepare a housing cost impact statement, the court or other reviewing authority shall remand the proposed rule or ordinance or any amendment to a rule or ordinance to the adopting or repealing entity if it determines that a housing cost impact statement is required.

(3) The court or other reviewing authority shall determine only whether a housing cost impact statement was prepared and shall not make any determination as to the suffi-

ciency of the housing cost impact statement. [1995 c.652 §4; 2001 c.220 §4]

Note: See note under 183.530.

(Effects of Rules on Small Business)

183.540 Reduction of economic impact on small business. If the statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by:

(1) Establishing differing compliance or reporting requirements or time tables for small business;

(2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;

(3) Utilizing objective criteria for standards;

(4) Exempting small businesses from any or all requirements of the rule; or

(5) Otherwise establishing less intrusive or less costly alternatives applicable to small business. [1981 c.755 §4; 2003 c.749 §7; 2005 c.807 §6]

183.545 [1981 c.755 §5; repealed by 2003 c.749 §17]

183.550 [1981 c.755 §6; repealed by 2003 c.749 §17]

183.560 [2001 c.374 §1; 2003 c.740 §1; renumbered 183.700 in 2003]

183.562 [2001 c.374 §2; renumbered 183.702 in 2003]

183.600 [1999 c.849 §2; 2003 c.75 §1; repealed by 2009 c.866 §4]

(Office of Administrative Hearings)

183.605 Office of Administrative Hearings. (1) The Office of Administrative Hearings is established within the Employment Department. The office shall be managed by the chief administrative law judge appointed under ORS 183.610. The office shall make administrative law judges available to agencies under ORS 183.605 to 183.690. Administrative law judges assigned from the office under ORS 183.605 to 183.690 may:

(a) Conduct contested case proceedings on behalf of agencies in the manner provided by ORS 183.605 to 183.690;

(b) Perform such other services, as may be requested by an agency, that are appropriate for the resolution of disputes arising out of the conduct of agency business; and

(c) Perform such other duties as may be authorized under ORS 183.605 to 183.690.

(2) All persons serving as administrative law judges in the office must meet the standards and training requirements of ORS 183.680.

(3) The Employment Department shall provide administrative services to the Office of Administrative Hearings, including budget services, accounting services, procurement services, contracting services, human resources services and information technology services. The services must be provided in a manner that is consistent with law, rules and state policies. The Office of Administrative Hearings shall reimburse the Employment Department for the costs of the services provided. [1999 c.849 §3; 2003 c.75 §2; 2009 c.866 §5]

183.610 Chief administrative law judge. (1) The Governor shall appoint a person to serve as chief administrative law judge for the Office of Administrative Hearings. The Governor shall consider recommendations by the Office of Administrative Hearings Oversight Committee in appointing a chief administrative law judge. The person appointed to serve as chief administrative law judge must be an active member of the Oregon State Bar. The chief administrative law judge has all the powers necessary and convenient to organize and manage the office. Subject to the State Personnel Relations Law, the chief administrative law judge shall employ all persons necessary for the administration of the office, prescribe the duties of those employees and fix their compensation. The chief administrative law judge shall serve for a term of four years. Notwithstanding ORS 236.140, the Governor may remove the chief administrative law judge only for cause.

(2) The chief administrative law judge shall employ administrative law judges. The chief administrative law judge shall ensure that administrative law judges employed for the office receive all training necessary to meet the standards required under the program created under ORS 183.680.

(3) The chief administrative law judge shall take all actions necessary to protect and ensure the independence of each administrative law judge assigned from the office. [1999 c.849 §4; 2003 c.75 §3; 2009 c.866 §1]

183.615 Administrative law judges; duties; qualifications; rules. (1) An administrative law judge employed by or contracting with the chief administrative law judge shall conduct hearings on behalf of agencies as assigned by the chief administrative law judge. An administrative law judge shall be impartial in the performance of the administrative law judge's duties and shall remain fair in all hearings conducted by the administrative law judge. An administrative law judge shall develop the record in contested case proceedings in the manner provided by ORS 183.417 (8).

(2) Only persons who have a knowledge of administrative law and procedure may be employed by the chief administrative law

judge as administrative law judges. The chief administrative law judge by rule may establish additional qualifications for administrative law judges employed for the office. [1999 c.849 §5; 2003 c.75 §4; 2007 c.659 §§3,6]

183.620 Contract administrative law judges. (1) The chief administrative law judge for the Office of Administrative Hearings may contract for the services of persons to act as administrative law judges.

(2) Contract administrative law judges shall meet the same qualifications as administrative law judges regularly employed by the chief administrative law judge and shall be paid at an hourly rate comparable to the per hour cost of salary and benefits for administrative law judges regularly employed by the chief administrative law judge and conducting similar hearings. [1999 c.849 §6; 2003 c.75 §5]

183.625 Assignment of administrative law judges; conduct of hearings. (1) In assigning an administrative law judge to conduct hearings on behalf of an agency, the chief administrative law judge shall, whenever practicable, assign an administrative law judge that has expertise in the legal issues or general subject matter of the proceeding.

(2) Notwithstanding any other provision of state law, any agency that is required to use administrative law judges assigned from the Office of Administrative Hearings to conduct hearings must delegate responsibility for the conduct of the hearing to an administrative law judge assigned from the Office of Administrative Hearings, and the hearing may not be conducted by the administrator, director, board, commission or other person or body charged with administering the agency.

(3) Any agency may authorize an administrative law judge assigned to conduct a hearing on behalf of the agency under this section to enter a final order for the agency.

(4) An agency that is not required to use administrative law judges assigned from the office may contract with the chief administrative law judge for the assignment of an administrative law judge from the office for the purpose of conducting one or more contested cases on behalf of the agency. [1999 c.849 §7; 2003 c.75 §6]

183.630 Model rules of procedure; exemptions; depositions. (1) Except as provided in subsection (2) of this section, all contested case hearings conducted by administrative law judges assigned from the Office of Administrative Hearings must be conducted pursuant to the model rules of procedure prepared by the Attorney General under ORS 183.341 if the hearing is subject to the procedural requirements for contested case proceedings.

(2) The Attorney General, after consulting with the chief administrative law judge, may exempt an agency or a category of cases from the requirements of subsection (1) of this section. The exemption may be from all or part of the model rules adopted by the Attorney General. Any exemption granted under this subsection must be made in writing.

(3) The Attorney General shall consult with an advisory group when adopting model rules of procedure for the purpose of contested case hearings conducted by administrative law judges assigned from the Office of Administrative Hearings. The advisory group shall consist of:

(a) The chief administrative law judge;

(b) An officer or employee of a state agency, appointed by the Governor;

(c) An attorney who practices administrative law, appointed by the Oregon State Bar;

(d) A deputy or assistant attorney general appointed by the Attorney General; and

(e) A public member, appointed by the Governor, who is not an attorney or an officer or employee of a state agency.

(4) Except as may be expressly granted by the agency to an administrative law judge assigned from the office, or as may be expressly provided for by law, an administrative law judge conducting a hearing for an agency under ORS 183.605 to 183.690 may not authorize a party to take a deposition that is to be paid for by the agency. [1999 c.849 §8; 2003 c.75 §7; 2009 c.866 §6]

183.635 Agencies required to use administrative law judges from Office of Administrative Hearings; exceptions. (1) Except as provided in this section, all agencies must use administrative law judges assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct contested case hearings, without regard to whether those hearings are subject to the procedural requirements for contested case hearings.

(2) The following agencies need not use administrative law judges assigned from the office:

(a) Attorney General.

(b) Boards of stewards appointed by the Oregon Racing Commission.

(c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

(d) Department of Corrections.

(e) Department of Education, State Board of Education and Superintendent of Public Instruction.

(f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C. 722(c) and disability determination cases under 42 U.S.C. 405.

(g) Department of Revenue.

(h) Department of State Police.

(i) Employment Appeals Board.

(j) Employment Relations Board.

(k) Energy Facility Siting Council.

(L) Fair Dismissal Appeals Board.

(m) Governor.

(n) Land Conservation and Development Commission.

(o) Land Use Board of Appeals.

(p) Local government boundary commissions created pursuant to ORS 199.430.

(q) Public universities listed in ORS 352.002.

(r) Oregon Youth Authority.

(s) Psychiatric Security Review Board.

(t) Public Utility Commission.

(u) State Accident Insurance Fund Corporation.

(v) State Apprenticeship and Training Council.

(w) State Board of Parole and Post-Prison Supervision.

(x) State Land Board.

(y) State Treasurer.

(3) The Workers' Compensation Board is exempt from using administrative law judges assigned from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except as specifically provided in this subsection, the Department of Consumer and Business Services must use administrative law judges assigned from the office only for contested cases arising out of the department's powers and duties under:

(a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;

(b) ORS chapter 455;

(c) ORS chapter 674;

(d) ORS chapters 706 to 716;

(e) ORS chapter 717;

(f) ORS chapters 723, 725 and 726; and

(g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750.

(4) Notwithstanding any other provision of law, in any proceeding in which an agency is required to use an administrative law judge assigned from the office, an officer or employee of the agency may not conduct the hearing on behalf of the agency.

(5) Notwithstanding any other provision of ORS 183.605 to 183.690, an agency is not required to use an administrative law judge assigned from the office if:

(a) Federal law requires that a different administrative law judge or hearing officer be used; or

(b) Use of an administrative law judge from the office could result in a loss of federal funds.

(6) Notwithstanding any other provision of this section, the Department of Environmental Quality must use administrative law judges assigned from the office only for contested case hearings conducted under the provisions of ORS 183.413 to 183.470. [1999 c.849 §9; 2001 c.900 §46; 2003 c.75 §8; 2005 c.22 §131; 2005 c.26 §18; 2007 c.239 §9; 2009 c.541 §6; 2009 c.762 §46; 2009 c.830 §147; 2009 c.866 §10; 2011 c.637 §64; 2011 c.708 §25; 2013 c.296 §19; 2015 c.767 §53; 2017 c.442 §24]

Note: The amendments to 183.635 by section 56, chapter 678, Oregon Laws 2019, become operative July 1, 2021. See section 85, chapter 678, Oregon Laws 2019. The text that is operative on and after July 1, 2021, is set forth for the user's convenience.

183.635. (1) Except as provided in this section, all agencies must use administrative law judges assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct contested case hearings, without regard to whether those hearings are subject to the procedural requirements for contested case hearings.

(2) The following agencies need not use administrative law judges assigned from the office:

(a) Attorney General.

(b) Boards of stewards appointed by the Oregon Racing Commission.

(c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

(d) Department of Corrections.

(e) Department of Education, State Board of Education and Superintendent of Public Instruction.

(f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C. 722(c) and disability determination cases under 42 U.S.C. 405.

(g) Department of Revenue.

(h) Department of State Police.

(i) Employment Appeals Board.

(j) Employment Relations Board.

(k) Energy Facility Siting Council.

(L) Fair Dismissal Appeals Board.

(m) Governor.

(n) Land Conservation and Development Commission.

(o) Land Use Board of Appeals.

(p) Local government boundary commissions created pursuant to ORS 199.430.

(q) Public universities listed in ORS 352.002.

(r) Oregon Youth Authority.

(s) Psychiatric Security Review Board.

(t) Public Utility Commission.

(u) State Accident Insurance Fund Corporation.

(v) State Apprenticeship and Training Council.

(w) State Board of Parole and Post-Prison Supervision.

(x) State Land Board.

(y) State Treasurer, except the State Treasurer shall use an administrative law judge for contested cases involving claims arising under ORS 98.302 to 98.436, 98.992 or 116.253 or any other claim to escheated or unclaimed property.

(3) The Workers' Compensation Board is exempt from using administrative law judges assigned from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except as specifically provided in this subsection, the Department of Consumer and Business Services must use administrative law judges assigned from the office only for contested cases arising out of the department's powers and duties under:

(a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;

(b) ORS chapter 455;

(c) ORS chapter 674;

(d) ORS chapters 706 to 716;

(e) ORS chapter 717;

(f) ORS chapters 723, 725 and 726; and

(g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750.

(4) Notwithstanding any other provision of law, in any proceeding in which an agency is required to use an administrative law judge assigned from the office, an officer or employee of the agency may not conduct the hearing on behalf of the agency.

(5) Notwithstanding any other provision of ORS 183.605 to 183.690, an agency is not required to use an administrative law judge assigned from the office if:

(a) Federal law requires that a different administrative law judge or hearing officer be used; or

(b) Use of an administrative law judge from the office could result in a loss of federal funds.

(6) Notwithstanding any other provision of this section, the Department of Environmental Quality must use administrative law judges assigned from the office only for contested case hearings conducted under the provisions of ORS 183.413 to 183.470.

183.640 Use of Office of Administrative Hearings by exempt agencies and by political subdivisions. (1) Upon request of an agency, the chief administrative law judge for the Office of Administrative Hearings may assign administrative law judges from the office to conduct contested case proceedings on behalf of agencies that are exempted from mandatory use of administrative law judges assigned from the office under ORS 183.635.

(2) The chief administrative law judge may contract with any political subdivision of this state to provide the services of administrative law judges to the political subdivision for the purpose of conducting quasi-judicial hearings on behalf of the political subdivision. [1999 c. 849 §10; 2003 c.75 §9]

183.645 Request for change of administrative law judge; rules. (1) After assignment of an administrative law judge from the Office of Administrative Hearings to conduct a hearing on behalf of an agency, the chief administrative law judge shall assign a different administrative law judge for the hearing upon receiving a written request from any party in the contested case or from the agency. The chief administrative law judge may by rule establish time limitations and procedures for requests under this section.

(2) Only one request for a change of assignment of administrative law judge under subsection (1) of this section may be granted by the chief administrative law judge without a showing of good cause. If a party or agency fails to make a request under subsection (1) of this section within the time allowed, or if a party or agency objects to an administrative law judge assigned after a request for a different administrative law judge has been granted under subsection (1) of this section, the chief administrative law judge shall assign a different administrative law judge only upon a showing of good cause.

(3) Notwithstanding subsection (1) of this section, a different administrative law judge may not be assigned for a hearing provided under ORS 813.410 or 813.440 on suspension of driving privileges, except upon a showing of good cause. [1999 c.849 §11; 2001 c.294 §8; 2003 c.75 §10]

183.650 Form of order; modification of form of order by agency; finding of historical fact. (1) In any contested case hearing conducted by an administrative law judge assigned from the Office of Administrative Hearings, the administrative law judge shall prepare and serve on the agency and all parties to the hearing a form of order, including recommended findings of fact and conclusions of law. The administrative law judge shall also prepare and serve a proposed order in the manner provided by ORS 183.464 unless the agency or hearing is exempt from the requirements of ORS 183.464.

(2) If the administrative law judge assigned from the office will not enter the final order in a contested case proceeding, and the agency modifies the form of order issued by the administrative law judge in any substantial manner, the agency must identify the modifications and provide an explanation to the parties to the hearing as to why the agency made the modifications.

(3) An agency conducting a contested case hearing may modify a finding of historical fact made by the administrative law judge assigned from the Office of Administrative Hearings only if the agency determines that there is clear and convincing evidence in the record that the finding was wrong. For the purposes of this section, an administrative law judge makes a finding of historical fact if the administrative law judge determines that an event did or did not occur in the past or that a circumstance or status

did or did not exist either before the hearing or at the time of the hearing.

(4) Notwithstanding ORS 19.415 (3), if a party seeks judicial review of an agency's modification of a finding of historical fact under subsection (3) of this section, the court shall make an independent finding of the fact in dispute by conducting a review de novo of the record viewed as a whole. If the court decides that the agency erred in modifying the finding of historical fact made by the administrative law judge, the court shall remand the matter to the agency for entry of an order consistent with the court's judgment. [1999 c.849 §12; 2003 c.75 §11; 2009 c.231 §5; 2009 c.866 §7]

183.655 Fees. The chief administrative law judge for the Office of Administrative Hearings shall establish a schedule of fees for services rendered by administrative law judges assigned from the office. The fee charged shall be in an amount calculated to recover the cost of providing the administrative law judge, the cost of conducting the hearing and all associated administrative costs. All fees collected by the chief administrative law judge under this section shall be paid into the Office of Administrative Hearings Operating Account created under ORS 183.660. [1999 c.849 §13; 2003 c.75 §12]

183.660 Office of Administrative Hearings Operating Account. (1) The Office of Administrative Hearings Operating Account is created within the General Fund. The account shall consist of moneys paid into the account under ORS 183.655. Moneys credited to the account are continuously appropriated to the chief administrative law judge for the Office of Administrative Hearings created under ORS 183.605 for the purpose of paying expenses incurred in the administration of the office.

(2) At the discretion of the chief administrative law judge, petty cash funds may be established and maintained for the purpose of administering the duties of the office. [1999 c.849 §14; 2003 c.75 §13]

183.665 Estimates of office expenses. The chief administrative law judge for the Office of Administrative Hearings shall estimate in advance the expenses that the office will incur during each biennium and shall notify each agency required to use the office's services of the agency's share of the anticipated expenses for periods within the biennium. [1999 c.849 §15; 2003 c.75 §14]

183.670 Rules. Subject to the provisions of the State Personnel Relations Law, the chief administrative law judge for the Office of Administrative Hearings may adopt rules to:

(1) Organize and manage the Office of Administrative Hearings established under ORS 183.605.

(2) Facilitate the performance of the duties of administrative law judges assigned from the office.

(3) Establish qualifications for persons employed as administrative law judges by the office.

(4) Establish standards and procedures for the evaluation and training of administrative law judges employed by the office, consistent with standards and training requirements established under ORS 183.680. [1999 c.849 §16; 2003 c.75 §15]

183.675 Alternative dispute resolution. ORS 183.605 to 183.690 do not limit in any way the ability of any agency to use alternative dispute resolution, including mediation or arbitration, to resolve disputes without conducting a contested case hearing or without requesting assignment of an administrative law judge from the Office of Administrative Hearings. [1999 c.849 §16a; 2003 c.75 §16]

183.680 Standards and training program. (1) The chief administrative law judge for the Office of Administrative Hearings, working in coordination with the Attorney General, shall design and implement a standards and training program for administrative law judges employed by the office and for persons seeking to be employed as administrative law judges by the office. The program shall include:

(a) The establishment of an ethical code for persons employed as administrative law judges by the office.

(b) Training for administrative law judges employed by the office that is designed to assist in identifying cases that are appropriate for the use of alternative dispute resolution processes.

(2) The program established by the chief administrative law judge under this section may include:

(a) The conducting of courses on administrative law, evidence, hearing procedures and other issues that arise in presiding over administrative hearings, including courses designed to provide any training required by the chief administrative law judge for administrative law judges employed by the office.

(b) The certification of courses offered by other persons for the purpose of any training required by the chief administrative law judge for administrative law judges employed by the office.

(c) The provision of specialized training for administrative law judges in subject mat-

ter areas affecting particular agencies required to use administrative law judges assigned from the office.

(3) The chief administrative law judge is bound by the ethical code established under this section and must satisfactorily complete training required of administrative law judges employed by the office other than specialized training in subject matter areas affecting particular agencies. [1999 c.849 §19; 2003 c.75 §17]

183.685 Ex parte communications. (1) An administrative law judge assigned from the Office of Administrative Hearings who is presiding in a contested case proceeding and who receives an ex parte communication described in subsections (3) and (4) of this section shall place in the record of the pending matter:

(a) The name of each person from whom the administrative law judge received an ex parte communication;

(b) A copy of any ex parte written communication received by the administrative law judge;

(c) A copy of any written response to the communication made by the administrative law judge;

(d) A memorandum reflecting the substance of any ex parte oral communication made to the administrative law judge; and

(e) A memorandum reflecting the substance of any oral response made by the administrative law judge to an ex parte oral communication.

(2) Upon making a record of an ex parte communication under subsection (1) of this section, an administrative law judge shall advise the agency and all parties in the proceeding that an ex parte communication has been made a part of the record. The administrative law judge shall allow the agency and parties an opportunity to respond to the ex parte communication.

(3) Except as otherwise provided in this section, the provisions of this section apply to communications that:

(a) Relate to a legal or factual issue in a contested case proceeding;

(b) Are made directly or indirectly to an administrative law judge while the proceeding is pending; and

(c) Are made without notice and opportunity for the agency and all parties to participate in the communication.

(4) The provisions of this section apply to any ex parte communication made directly or indirectly to an administrative law judge, or to any agent of an administrative law judge, by:

(a) A party;

(b) A party's representative or legal adviser;

(c) Any other person who has a direct or indirect interest in the outcome of the proceeding;

(d) Any other person with personal knowledge of the facts relevant to the proceeding; or

(e) Any officer, employee or agent of an agency.

(5) The provisions of this section do not apply to:

(a) Communications made to an administrative law judge by other administrative law judges; or

(b) Communications made to an administrative law judge by any person employed by the office to assist the administrative law judge. [1999 c.849 §20; 2003 c.75 §18; 2009 c.866 §9]

183.690 Office of Administrative Hearings Oversight Committee. (1) The Office of Administrative Hearings Oversight Committee is created. The committee consists of nine members, as follows:

(a) The President of the Senate and the Speaker of the House of Representatives shall appoint four legislators to the committee. Two shall be Senators appointed by the President. Two shall be Representatives appointed by the Speaker.

(b) The Governor shall appoint two members to the committee. At least one of the members appointed by the Governor shall be an active member of the Oregon State Bar with experience in representing parties who are not agencies in contested case hearings.

(c) The Attorney General shall appoint two members to the committee.

(d) The chief administrative law judge for the Office of Administrative Hearings shall serve as an ex officio member of the committee. The chief administrative law judge may cast a vote on a matter before the committee if the votes of the other members are equally divided on the matter.

(2) The term of a legislative member of the committee shall be two years. If a person appointed by the President of the Senate or by the Speaker of the House ceases to be a Senator or Representative during the person's term on the committee, the person may continue to serve as a member of the committee for the balance of the member's term on the committee. The term of all other appointed members shall be four years. Appointed members of the committee may be reappointed. If a vacancy occurs in one of the appointed positions for any reason during the term of membership, the official who ap-

pointed the member to the vacated position shall appoint a new member to serve the remainder of the term. An appointed member of the committee may be removed from the committee at any time by the official who appointed the member.

(3)(a) The members of the committee shall select from among themselves a chairperson and a vice chairperson.

(b) The committee shall meet at such times and places as determined by the chairperson.

(4) Legislative members shall be entitled to payment of per diem and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(5) The committee shall:

(a) Study the operations of the Office of Administrative Hearings;

(b) Make any recommendations to the Governor and the Legislative Assembly that the committee deems necessary to increase the effectiveness, fairness and efficiency of the operations of the Office of Administrative Hearings;

(c) Make any recommendations for additional legislation governing the operations of the Office of Administrative Hearings; and

(d) Conduct such other studies as necessary to accomplish the purposes of this subsection.

(6) The Employment Department shall provide the committee with staff, subject to availability of funding for that purpose. [1999 c.849 §21; 2003 c.75 §19; 2005 c.22 §132; 2009 c.866 §3]

PERMITS AND LICENSES

183.700 Permits subject to ORS 183.702. (1) As used in this section and ORS 183.702, "permit" means an individual and particularized license, permit, certificate, approval, registration or similar form of permission required by law to pursue any activity specified in this section, for which an agency must weigh information, make specific findings and make determinations on a case-by-case basis for each applicant.

(2) The requirements of this section and ORS 183.702 apply to the following permits granted by:

(a) The Department of Environmental Quality under ORS 448.415, 454.655, 454.695, 454.790, 454.800, 459.205, 465.315, 465.325, 466.140, 466.145, 466.706 to 466.882, 468A.040, 468A.310, 468B.035, 468B.040, 468B.045, 468B.050 and 468B.095.

(b) The Department of State Lands under ORS 196.800 to 196.900 and 390.805 to 390.925.

(c) The Water Resources Department under ORS chapters 537 and 540, except those permits issued under ORS 537.747 to 537.765.

(d) The State Department of Agriculture pursuant to ORS 468B.200 to 468B.230 and 622.250.

(e) The State Department of Fish and Wildlife pursuant to ORS 497.142, 497.218, 497.228, 497.238, 497.248, 497.252, 497.298, 497.308, 498.019, 498.279, 508.106, 508.300, 508.760, 508.775, 508.801, 508.840, 508.880, 508.926 and 509.140.

(f) The Department of Transportation pursuant to ORS 374.312. [Formerly 183.560]

Note: 183.700 and 183.702 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.702 Statement of criteria and procedures for evaluating permit application; documentation of decision on application; required signature. (1) At the time a person applies for a permit specified in ORS 183.700, the issuing agency shall offer a document to that applicant that specifies the criteria and procedures for evaluating a permit application.

(2) The agencies specified in ORS 183.700 must document in writing the basis for all decisions to deny a permit specified in ORS 183.700, including citation to the criteria applied by the agency and the manner in which agency standards were utilized in applying the criteria. The documentation required under this section shall be made part of the record for the decision on the permit application.

(3) At least one officer or employee of the issuing agency who has authority to sign orders on behalf of the agency, or the officer or employee responsible for the decision to deny a permit specified in ORS 183.700, shall sign the documentation required under subsection (2) of this section.

(4) The issuing agency shall provide to the applicant a copy of the documentation required under subsection (2) of this section. [Formerly 183.562]

Note: See note under 183.700.

183.705 Extended term for renewed licenses; fees; continuing education; rules. (1) Notwithstanding any other provision of law, an agency that issues licenses that must be renewed on an annual basis under the laws administered by the agency also may offer those licenses with terms of two, three, four or five years. Notwithstanding any other provision of law, an agency that issues licenses that must be renewed on a biennial basis under the laws administered by the agency also may offer those licenses with

terms of three, four or five years. Extended terms may be offered only for renewed licenses and may not be offered for initial applications for licenses.

(2) An agency may offer an extended term under this section for a license issued by the agency only after adopting a rule authorizing the extended term. An agency may adopt a rule authorizing an extended term only if the agency finds that the extended term is consistent with public safety and with the objectives of the licensing requirement. An agency by rule may prohibit extended terms based on prior license discipline of an applicant.

(3) An applicant must meet all qualifications established by the agency to be granted an extended term.

(4) An agency may not offer an extended term under this section if:

(a) Another agency or a local government, as defined by ORS 174.116, is authorized by statute to make a recommendation on the issuance of the license;

(b) The agency or the local government, as defined by ORS 174.116, that has authority to make a recommendation on the issuance of the license has recommended against the issuance of the license; and

(c) The recommendation of the agency or the local government, as defined by ORS 174.116, is based on licensing criteria established by statute or by rule.

(5) An extended term granted under this section may be revoked by an agency if the agency determines that the licensee is subject to discipline under the licensing criteria applicable to the licensee. An agency offering extended terms under this section by rule may establish other grounds for revoking an extended term under this section.

(6) Notwithstanding any other provision of law, an agency that offers an extended term under this section for a license issued by the agency shall increase the annual or biennial license fee established by statute by a percentage no greater than necessary to ensure that there is no revenue loss by reason of the extended term.

(7) Notwithstanding any other provision of law, an agency that offers an extended term under this section for a license issued by the agency shall increase any annual or biennial continuing education requirement established by statute as necessary to ensure that there is no reduction in the continuing education requirement for licensees by reason of the extended term. [2005 c.76 §2; 2007 c.768 §1]

REVIEW OF RULES

(Legislative Assembly)

183.710 Definitions for ORS 183.710 to 183.730. As used in ORS 183.710 to 183.730, unless the context requires otherwise:

(1) "Interim committee" means a committee of the Legislative Assembly that is scheduled to meet when the Legislative Assembly is not in session and that has subject-matter jurisdiction over the state agency that has adopted a rule, as set forth in the subject-matter jurisdiction list developed under ORS 183.724.

(2) "Rule" has the meaning given that term in ORS 183.310.

(3) "State agency" means an agency as defined in ORS 183.310. [Formerly 171.705; 2009 c.81 §1]

Note: 183.710 to 183.730 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.715 Submission of adopted rule to Legislative Counsel required. If a state agency adopts, amends or repeals a rule, the Secretary of State shall electronically submit a copy of the adopted, amended or repealed rule to the Legislative Counsel within 10 days after the agency files the rule in the office of the Secretary of State as provided in ORS 183.355. The electronic transmission of an amended rule that is submitted to the Legislative Counsel must show all changes to the rule by striking through material to be deleted and underlining all new material, or by any other method that clearly shows all new and deleted material. [Formerly 171.707; 1991 c.94 §1; 1999 c.167 §1; 2005 c.18 §2; 2017 c.518 §7]

Note: See note under 183.710.

183.720 Procedure for review of agency rule; reports on rules claimed to be duplicative or conflicting. (1) The Legislative Counsel may review, or shall review at the direction of the Legislative Counsel Committee, a proposed rule or an adopted rule of a state agency.

(2) The Legislative Counsel may review an adopted rule of a state agency upon the written request of any person affected by the rule. The Legislative Counsel shall review a proposed or adopted rule of a state agency upon the written request of any member of the Legislative Assembly. The written request for review must identify the specific objection or problem with the rule.

(3) When reviewing a rule of a state agency pursuant to subsection (1) or (2) of this section, the Legislative Counsel shall:

(a) Determine whether the rule appears to be within the intent and scope of the en-

abling legislation purporting to authorize its adoption; and

(b) Determine whether the rule raises any constitutional issue other than described in paragraph (a) of this subsection, and if so, the nature of the issue.

(4) In making a determination under subsection (3)(a) of this section, the Legislative Counsel shall, wherever possible, follow generally accepted principles of statutory construction.

(5) The Legislative Counsel shall prepare written findings on a rule reviewed, setting forth the determinations made under subsection (3) of this section.

(6) When a review of a rule is made by the Legislative Counsel, the Legislative Counsel shall send a copy of the determinations made under subsection (3) of this section to the appropriate interim committee or, if the review was requested by a member of the Legislative Assembly or by a person affected by the rule, to the person requesting the review. If the Legislative Counsel determines that a rule is not within the intent and scope of the enabling legislation purporting to authorize the state agency's adoption of the rule, or that the rule raises a constitutional issue, the Legislative Counsel shall also send a copy of the determination to the agency. The Legislative Counsel may request that the state agency respond in writing to the determinations or appear at the meeting of the interim committee at which the committee will consider the determinations. The interim committee may direct the Legislative Counsel to send a copy of the determinations to the presiding officer of a house of the Legislative Assembly, who may refer the determinations to any legislative committee concerned.

(7)(a) A member of the Legislative Assembly may request that Legislative Counsel prepare a report on a rule adopted by a state agency that the member asserts is duplicative of or conflicts with another rule. A person affected by a rule adopted by a state agency may request that Legislative Counsel prepare a report on the rule if the person asserts that the rule is duplicative of or conflicts with another rule. A request for a report must be in writing and contain copies of the two rules that are claimed to be duplicative or conflicting. The second rule may be either a rule adopted by a state agency or a rule or regulation adopted by a federal agency.

(b)(A) Upon receipt of a written request by a member of the Legislative Assembly, the Legislative Counsel shall prepare a report to the interim committee that contains:

(i) A copy of the request, including copies of the two rules that the member asserts are conflicting or duplicative; and

(ii) Legislative Counsel's analysis of the requirements of the two rules.

(B) Upon receipt of a written request by a person affected by a rule adopted by a state agency, the Legislative Counsel may prepare a written report to the person and each state agency concerned that contains the Legislative Counsel's analysis of the requirements of the two rules.

(8) Upon receipt of a report under subsection (7)(b)(A) of this section, the interim committee may issue a determination that a rule is duplicative of or conflicts with the other cited rule.

(9) When a report on a rule is made by the Legislative Counsel under subsection (7)(b)(A) of this section, the Legislative Counsel shall send a copy of the report and any determinations made under subsection (8) of this section to each state agency concerned. The interim committee may direct the Legislative Counsel to send a copy of the determinations to the presiding officer of a house of the Legislative Assembly, who may refer the determinations to any legislative committee concerned. [Formerly 171.709; 1993 c.729 §7; 1997 c.602 §4; 2001 c.156 §1; 2009 c.81 §4]

Note: See note under 183.710.

183.722 Required agency response to Legislative Counsel determination; consideration of determination by interim committee. (1)(a) If the Legislative Counsel determines under ORS 183.720 (3) that a proposed or adopted rule is not within the intent and scope of the enabling legislation purporting to authorize the rule's adoption, or that the rule is not constitutional, and the Legislative Counsel has provided a copy of that determination to the state agency pursuant to 183.720 (6), the agency shall either make a written response to the determination or appear at the meeting of the interim committee at which the committee will consider the determinations. The response of the state agency shall indicate if the agency intends to repeal, amend or take other action with respect to the rule.

(b) The interim committee shall consider the Legislative Counsel determination described in paragraph (a) of this subsection and any state agency response to the determination. If the interim committee adopts the Legislative Counsel determination, the Legislative Counsel shall post the determination on the Legislative Counsel website. Adopted determinations that are posted on the website shall be organized by OAR number and shall remain on the website until the earlier of the date that:

(A) The rule is modified and the Legislative Counsel determines that the modified rule is within the intent and scope of the enabling legislation;

(B) A court makes a final determination that the rule is within the intent and scope of the enabling legislation and is otherwise constitutional, all appeals of the court's determination are exhausted and the state agency notifies the Legislative Counsel of the determination; or

(C) The Legislative Assembly modifies the enabling legislation so as to bring the rule within the intent and scope of the enabling legislation, any other constitutional defect in the rule is cured and the state agency notifies the Legislative Counsel of the modification or cure.

(2) If the Legislative Counsel determines under ORS 183.720 (3) that a proposed or adopted rule is not within the intent and scope of the enabling legislation purporting to authorize the rule's adoption, or that the rule is not constitutional, and the interim committee is not satisfied with the response to those issues made by the state agency, the committee may request that one or more representatives of the agency appear at a subsequent meeting of the committee along with a representative of the Oregon Department of Administrative Services for the purpose of further explaining the position of the agency.

(3) If a state agency is requested under subsection (2) of this section to appear at a subsequent meeting of the interim committee along with a representative of the Oregon Department of Administrative Services, the agency shall promptly notify the department of the request. The notification to the department must be in writing, and must include a copy of the determinations made by the Legislative Counsel and a copy of any written response made by the state agency to the determinations. [1997 c.602 §7; 1999 c.31 §2; 2009 c.81 §5]

Note: See note under 183.710.

183.724 Designation of interim committees for purposes of considering rule reports. (1) As soon as is practicable after the end of each odd-numbered year regular legislative session, the Legislative Counsel shall develop a list of state agencies with areas of responsibility that are primarily within the subject-matter jurisdiction of interim committees of the Legislative Assembly. The Legislative Counsel shall assign all state agencies to at least one interim committee. The Legislative Counsel may modify the list to reflect changes in interim committees. The Legislative Counsel shall distribute the list to all state agencies whenever the list is developed or modified.

(2) If an interim committee of one house of the Legislative Assembly has overlapping subject-matter jurisdiction with an interim committee of the other house, the Legislative Counsel may assign a state agency to either committee or to both committees. The Legislative Counsel shall strive to assign state agencies so as to ensure that the rule review workload is approximately equally distributed between the interim committees of both houses of the Legislative Assembly.

(3) The consideration of the written findings prepared by the Legislative Counsel on a rule by any one interim committee of either house of the Legislative Assembly satisfies the requirements of ORS 183.710 to 183.730. [2009 c.81 §3; 2011 c.545 §13]

Note: See note under 183.710.

183.725 [Formerly 171.713; 1993 c.729 §8; 1997 c.602 §5; 1999 c.31 §1; 2009 c.81 §6; repealed by 2017 c.518 §9]

(Oregon Sunshine Committee)

183.730 Review of rule by Oregon Sunshine Committee. (1) As used in this section, "public record" has the meaning given that term in ORS 192.311.

(2) The Oregon Sunshine Committee shall include in the plan or schedule for review established under ORS 192.511 an adopted rule of a state agency upon the written request of any person affected by the rule if the adopted rule impacts the disclosure, or exemption from disclosure, of a public record. The request must specify the disclosure or exemption that is of concern.

(3) The committee shall include in the plan or schedule for review established under ORS 192.511 an adopted rule of a state agency upon the written request of a member of the Legislative Assembly if the adopted rule impacts the disclosure, or exemption from disclosure, of a public record. [2017 c.654 §9]

Note: See note under 183.710.

CIVIL PENALTIES

183.745 Civil penalty procedures; notice; hearing; judicial review; exemptions; recording; enforcement. (1) Except as otherwise provided by law, an agency may only impose a civil penalty as provided in this section.

(2) A civil penalty imposed under this section shall become due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A person against whom a civil penalty is to be imposed shall be served with a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided by ORS 183.415.

(3) The person to whom the notice is addressed shall have 20 days from the date of service of the notice provided for in subsection (2) of this section in which to make written application for a hearing. The agency may by rule provide for a longer period of time in which application for a hearing may be made. If no application for a hearing is made within the time allowed, the agency may make a final order imposing the penalty. A final order entered under this subsection need not be delivered or mailed to the person against whom the civil penalty is imposed.

(4) Any person who makes application as provided for in subsection (3) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(5) Judicial review of an order made after a hearing under subsection (4) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.

(6) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(7) This section does not apply to penalties:

(a) Imposed under the tax laws of this state;

(b) Imposed under the provisions of ORS 646.760 or 652.332;

(c) Imposed under the provisions of ORS chapter 654, 656 or 659A; or

(d) Imposed by the Public Utility Commission.

(8) This section creates no new authority in any agency to impose civil penalties.

(9) This section does not affect:

(a) Any right under any other law that an agency may have to bring an action in a court of this state to recover a civil penalty; or

(b) The ability of an agency to collect a properly imposed civil penalty under the provisions of ORS 305.830.

(10) The notice provided for in subsection (2) of this section may be made part of any other notice served by the agency under ORS 183.415.

(11) Informal disposition of proceedings under this section, whether by stipulation, agreed settlement, consent order or default, may be made at any time.

(12) In addition to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant to the provisions of this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced as provided in ORS 205.125 and 205.126.

(13) As used in this section:

(a) "Agency" has that meaning given in ORS 183.310.

(b) "Civil penalty" includes only those monetary penalties that are specifically denominated as civil penalties by statute. [Formerly 183.090]

Note: 183.745 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

READABILITY OF PUBLIC WRITINGS

183.750 State agency required to prepare public writings in readable form. (1) Every state agency shall prepare its public writings in language that is as clear and simple as possible.

(2) As used in this section:

(a) "Public writing" means any rule, form, license or notice prepared by a state agency.

(b) "State agency" means any officer, board, commission, department, division or institution in the executive or administrative branch of state government. [Formerly 183.025]

Note: 183.750 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Chapter 319

2019 EDITION

Motor Vehicle and Aircraft Fuel Taxes

MOTOR VEHICLE FUEL AND AIRCRAFT FUEL TAXES

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MOTOR VEHICLE FUEL AND AIRCRAFT FUEL TAXES

319.010 Definitions for ORS 319.010 to 319.430. As used in ORS 319.010 to 319.430, unless the context requires otherwise:

(1) "Aircraft" means every contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air, operated or propelled by the use of aircraft fuel.

(2) "Aircraft fuel" means any gasoline and any other inflammable or combustible gas or liquid by whatever name such gasoline, gas or liquid is known or sold, usable as fuel for the operation of aircraft, except gas or liquid, the chief use of which, as determined by the Department of Transportation is for purposes other than the propulsion of aircraft.

(3) "Airport" means any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft.

(4) "Broker" means and includes every person other than a dealer engaged in business as a broker, jobber or wholesale merchant dealing in motor vehicle fuel or aircraft fuel.

(5) "Bulk transfer" means any change in ownership of motor vehicle fuel or aircraft fuel contained in a terminal storage facility or any physical movement of motor vehicle fuel or aircraft fuel between terminal storage facilities by pipeline or marine transport.

(6) "Dealer" means any person who:

(a) Imports or causes to be imported motor vehicle fuels or aircraft fuels for sale, use or distribution in, and after the same reaches the State of Oregon, but "dealer" does not include any person who imports into this state motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under ORS 319.010 to 319.430 and who assumes liability for the payment of the applicable license tax to this state;

(b) Produces, refines, manufactures or compounds motor vehicle fuels or aircraft fuels in the State of Oregon for use, distribution or sale in this state;

(c) Acquires in this state for sale, use or distribution in this state motor vehicle fuels or aircraft fuels with respect to which there has been no license tax previously incurred; or

(d) Acquires title to or possession of motor vehicle fuels or aircraft fuels in this state and exports the product out of this state.

(7) "Department" means the Department of Transportation.

(8) "Distribution" means, in addition to its ordinary meaning, the delivery of motor vehicle fuel or aircraft fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel or aircraft fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.

(9) "First sale, use or distribution of motor vehicle fuel or aircraft fuel" means the first withdrawal, other than by bulk transfer, of motor vehicle fuel or aircraft fuel from terminal storage facilities for sale, use or distribution. "First sale, use or distribution of motor vehicle fuel or aircraft fuel" also means the first sale, use or distribution of motor vehicle fuel or aircraft fuel after import into this state if the motor vehicle fuel or aircraft fuel is delivered other than to the terminal storage facilities of a licensed dealer.

(10) "Highway" means every way, thoroughfare and place, of whatever nature, open for use of the public for the purpose of vehicular travel.

(11) "Motor vehicle" means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.

(12) "Motor vehicle fuel" means and includes gasoline and any other inflammable or combustible gas or liquid, by whatever name such gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas or liquid, the chief use of which, as determined by the department, is for purposes other than the propulsion of motor vehicles upon the highways of this state.

(13) "Person" includes every natural person, association, firm, partnership, corporation or the United States.

(14) "Restricted landing area" means any area of land or water, or both, which is used or made available for the landing and takeoff of aircraft, the use of which, except in case of emergency, is provided from time to time by the department.

(15) "Service station" means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles or aircraft fuel into the fuel tanks of aircraft.

(16) "Terminal storage facility" means any fuel storage facility that has marine or pipeline access. [Amended by 1955 c.287 §19; 1955 c.730 §§1,15; 1957 c.209 §1; 1959 c.505 §1; 1963 c.226 §1; 1987 c.610 §1; 1989 c.664 §1; 1993 c.741 §28]

319.020 Monthly statement by dealer; license tax imposed; rules. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month. The dealer shall render the statement to the department in the manner provided by the department by rule.

(b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 34 cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS 319.010 to 319.430.

(2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed on the basis of 11 cents per gallon of fuel so sold, used or distributed, except that when aircraft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the tax rate shall be three cents per gallon.

(3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

(4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or laws of the United States with respect to such tax. [Amended by 1955 c.730 §2; 1959 c.505 §2; 1967 c.463 §1; 1973 c.376 §1; 1977 c.293 §1; 1981 c.698 §1; 1983 c.727 §§1,5; 1985 c.209 §12; 1987 c.610 §2; 1987 c.899 §§8,10, 14; 1989 c.664 §2; 1989 c.865 §1; 1991 c.497 §§6,7; 1999 c.1037 §§1,3; 2009 c.865 §48; 2011 c.101 §1; 2015 c.700 §1; 2017 c.750 §40]

Note: The amendments to 319.020 by section 4, chapter 700, Oregon Laws 2015, apply to aircraft fuel sold, used or distributed on or after January 1, 2022. See section 6, chapter 700, Oregon Laws 2015. The text that applies to aircraft fuel sold, used or distributed on or after January 1, 2022, including amendments by section 41, chapter 750, Oregon Laws 2017, is set forth for the user's convenience.

319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month. The dealer shall render the statement to the department in the manner provided by the department by rule.

(b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 34 cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS 319.010 to 319.430.

(2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed on the basis of nine cents per gallon of fuel so sold, used or distributed, except that when aircraft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the tax rate shall be one cent per gallon.

(3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

(4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or laws of the United States with respect to such tax.

Note: Section 45, chapter 750, Oregon Laws 2017, provides:

Sec. 45. (1)(a) For calendar years beginning on or after January 1, 2020, the rates determined under ORS 319.020 (1)(b) and 319.530 (1) shall each be increased by two cents only if the Oregon Transportation Commission submits a report in the manner provided by ORS 192.245 on or before December 1, 2019, to the Joint Committee on Transportation established under ORS 171.858 stating that:

(A) The commission has identified sufficient shovel-ready highway projects and highway maintenance or operational uses of the increased fuel tax revenue to justify the increase;

(B) The set of uniform standards required under ORS 184.657 (1) has been developed and the standards are being followed;

(C) The reports received from cities and counties under ORS 184.657 (2) have been submitted and posted by the commission as required under ORS 184.657 (3);

(D) The Department of Transportation is implementing the registration fees and title fees described in ORS 803.091 and 803.422; and

(E) The Interstate 205 Active Traffic Management Project and the Interstate 205 Corridor Bottleneck Project have been completed.

(b) In addition to the facts stated in the report required under paragraph (a) of this subsection, the Oregon Transportation Commission shall also submit with the report:

(A) A list of the shovel-ready highway projects the commission expects to undertake with the revenue that will become available as a result of the increase;

(B) The amount of bonds the commission considers necessary to be issued to complete shovel-ready highway projects scheduled to be commenced after January 1, 2020;

(C) The construction and financial status of uncompleted in-progress projects exceeding $20 million identified in chapter 750, Oregon Laws 2017;

(D) The status of the Treasure Valley Intermodal Facility Project and the Value Pricing Set-Up Project;

(E) Design, cost analysis and construction option packages for the Interstate 5 Rose Quarter Project for consideration by the Legislative Assembly; and

(F) The design, construction, financial status and progress of projects costing more than $20 million that are identified in chapter 750, Oregon Laws 2017, including, but not limited to, the Interstate 205 Abernethy Bridge Project, the Interstate 205 Freeway Widening Project, the State Highway 217 Northbound Project and the State Highway 217 Southbound Project, and any other state transportation projects implemented after October 6, 2017.

(2)(a) For calendar years beginning on or after January 1, 2022, the rates determined under ORS 319.020 (1)(b) and 319.530 (1) and subsection (1) of this section shall each be increased by two cents only if the Oregon Transportation Commission submits a report in the manner provided by ORS 192.245 on or before December 1, 2021, to the Joint Committee on Transportation established under ORS 171.858 stating that:

(A) The Continuous Improvement Advisory Committee appointed under ORS 184.665 has reviewed and reported to the commission on all transportation projects costing $50 million or more and completed not less than six months prior to the date of the report required under this paragraph;

(B) The recommendations for improvement reported by the Continuous Improvement Advisory Committee to the commission at least six months prior to the date of the report required under this paragraph, and approved by the commission, have been implemented or plans for implementation have been developed;

(C) The commission has identified sufficient shovel-ready highway projects and highway maintenance or operational uses of the increased fuel tax revenue to justify the increase;

(D) The set of uniform standards required under ORS 184.657 (1) has been developed and the standards are being followed;

(E) The reports received from cities and counties under ORS 184.657 (2) have been posted by the commission as required under ORS 184.657 (3);

(F) Under ORS 184.657 (4), payments from the State Highway Fund have been withheld from cities and counties that failed to submit reports as required under ORS 184.657 (2); and

(G) The Department of Transportation is implementing the registration fees and title fees described in ORS 803.091 and 803.422.

(b) In addition to the facts stated in the report required under paragraph (a) of this subsection, the Oregon Transportation Commission shall also identify in the report:

(A) A list of the shovel-ready highway projects the commission expects to undertake with the revenue that will become available as a result of the increase;

(B) The amount of bonds the commission considers necessary to be issued to complete shovel-ready highway projects scheduled to be commenced after January 1, 2022;

(C) The construction and financial status of uncompleted in-progress projects exceeding $50 million identified in chapter 750, Oregon Laws 2017; and

(D) The design, construction, financial status and progress of projects costing more than $20 million that are identified in chapter 750, Oregon Laws 2017, including, but not limited to, the Interstate 5 Rose Quarter Project, the Interstate 205 Abernethy Bridge Project, the Interstate 205 Freeway Widening Project, the State Highway 217 Northbound Project, the Newberg-Dundee Bypass Project and the State Highway 217 Southbound Project, and any other state transportation projects implemented after October 6, 2017.

(c) If the Commissioner of the Bureau of Labor and Industries has found substantial evidence, under ORS 279C.306, that a contracting agency that would otherwise receive increased amounts of fuel tax revenues pursuant to this section on or after January 1, 2022, has violated ORS 279C.305 within the five years immediately preceding the date of the commissioner's finding, or has materially breached an agreement entered into pursuant to ORS 279C.306, the Department of Transportation shall withhold the increased amounts until the final resolution of the violation or breach is determined under ORS 279C.306.

(3)(a) For calendar years beginning on or after January 1, 2024, the rates determined under ORS 319.020 (1)(b) and 319.530 (1) and subsections (1) and (2) of this section shall each be increased by two cents only if the Oregon Transportation Commission submits a report in the manner provided by ORS 192.245 on or before December 1, 2023, to the Joint Committee on Transportation established under ORS 171.858 stating that:

(A) The Continuous Improvement Advisory Committee appointed under ORS 184.665 has reviewed and reported to the commission on all transportation projects costing $50 million or more and completed not less than six months prior to the date of the report required under this paragraph;

(B) The recommendations for improvement reported by the Continuous Improvement Advisory Committee to the commission at least six months prior to the date of the report required under this paragraph, and approved by the commission, have been implemented or plans for implementation have been developed;

(C) The commission has identified sufficient shovel-ready highway projects and highway maintenance or operational uses of the increased fuel tax revenue to justify the increase;

(D) The set of uniform standards required under ORS 184.657 (1) has been developed and the standards are being followed;

(E) The reports received from cities and counties under ORS 184.657 (2) have been posted by the commission as required under ORS 184.657 (3); and

(F) Under ORS 184.657 (4), payments from the State Highway Fund have been withheld from cities and counties that failed to submit reports as required under ORS 184.657 (2).

(b) In addition to the facts stated in the report required under paragraph (a) of this subsection, the Oregon Transportation Commission shall also submit with the report:

(A) A list of the shovel-ready highway projects the commission expects to undertake with the revenue that will become available as a result of the increase;

(B) The amount of bonds the commission considers necessary to be issued to complete shovel-ready highway projects scheduled to be commenced after January 1, 2024; and

(C) The design, construction, financial status and progress of projects costing more than $20 million that are identified in chapter 750, Oregon Laws 2017, including, but not limited to, the Interstate 5 Rose Quarter Project, the Interstate 205 Abernethy Bridge Project, the Interstate 205 Freeway Widening Project, the State Highway 217 Northbound Project, the Newberg-Dundee Bypass Project and the State Highway 217 Southbound Project, and any other state transportation projects implemented after October 6, 2017.

(c) If the Commissioner of the Bureau of Labor and Industries has found substantial evidence, under ORS 279C.306, that a contracting agency that would otherwise receive increased amounts of fuel tax revenues pursuant to this section on or after January 1, 2024, has violated ORS 279C.305 within the five years immediately preceding the date of the commissioner's finding, or has materially breached an agreement entered into pursuant to ORS 279C.306, the Department of Transportation shall withhold the increased amounts until the final resolution of the violation or breach is determined under ORS 279C.306. [2017 c.750 §45; 2018 c.93 §43; 2019 c.250 §1; 2019 c.491 §7]

Note: Sections 7 and 8, chapter 700, Oregon Laws 2015, provide:

Sec. 7. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is computed on a basis in excess of one cent per gallon and any amount of tax on all other aircraft fuel that is computed on a basis in excess of nine cents per gallon, under ORS 319.020 (2); and

(b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in excess of one cent per gallon and any amount of tax on all other aircraft fuel in excess of nine cents per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

(2)(a) Applications for distributions under subsections (5) and (6) of this section may not be approved unless the applicant demonstrates a commitment to contribute at least five percent of the costs of the project to which the application relates. The Oregon Department of Aviation shall adopt rules for purposes of this paragraph.

(b) The department may adopt rules that:

(A) Set higher minimum contribution commitment requirements; or

(B) Establish maximum grant amounts.

(3)(a) The State Aviation Board shall establish a review committee composed of one member from each of the area commissions on transportation chartered by the Oregon Transportation Commission.

(b) The review committee shall meet as necessary to review applications for distributions of amounts pursuant to this section. In reviewing applications, the review committee shall consider:

(A) Whether a proposed project:

(i) Reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor in this state;

(ii) Results in an economic benefit to this state;

(iii) Connects elements of Oregon's aviation system in a way that will measurably improve utilization and efficiency of the system;

(iv) Is ready for construction or implementation; and

(v) Has a useful life expectancy that offers maximum benefit to this state; and

(B) How much of the cost of the proposed project can be borne by the applicant from sources other than Oregon Department of Aviation funds or the Connect Oregon Fund.

(c) The review committee shall recommend applications to the State Aviation Board for approval.

(4)(a) Five percent of the amounts described in subsection (1) of this section are appropriated to the Oregon Department of Aviation for the costs of the department and the State Aviation Board in administering this section.

(b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be distributed pursuant to subsections (5) to (7) of this section.

(5) Fifty percent of the amounts described in subsection (4)(b) of this section shall be prioritized in the following order and distributed for the following purposes:

(a) First, to assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants.

(b) Second, to make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan.

(c) Third, to make grants for:

(A) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment;

(B) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities; or

(C) Airport development for local economic benefit, including, but not limited to, signs and marketing.

(6) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed for the purpose of assisting commercial air service to rural Oregon.

(7) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed to state-owned airports for the purposes of:

(a) Safety improvements recommended by the State Aviation Board and local community airports.

(b) Infrastructure projects at public use airports.

(8)(a) The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and paragraph (b) of this subsection, that describe in detail the projects for which applications have been submitted and approved, the airports affected, the names of the applicants and the persons who will perform the work proposed in the applications, the progress of projects for which applications have been approved and any other information the board considers necessary for a comprehensive analysis of the implementation of this section.

(b) The reports described in paragraph (a) of this subsection shall be submitted:

(A) Not later than February 10 of each year to the committees of the Legislative Assembly related to air transportation; and

(B) Not later than September 30 of each year to the interim committees of the Legislative Assembly related to air transportation. [2015 c.700 §7; 2017 c.750 §80a; 2019 c.485 §1; 2019 c.491 §26]

Sec. 8. (1) Section 7 of this 2015 Act is repealed on January 2, 2022.

(2) Amounts described in section 7 (1) of this 2015 Act that are uncommitted on the date specified in sub-

section (1) of this section for distributions made pursuant to section 7 (5) to (7) of this 2015 Act may be expended as other aviation fuel tax revenues are expended. [2015 c.700 §8]

319.025 [1991 c.863 §18; repealed by 1991 c.863 §21]

319.030 License required for dealer in motor vehicle fuel. No dealer shall sell, use or distribute any motor vehicle fuel until the dealer has secured a dealer's license as required by ORS 319.010 to 319.430.

319.040 Application for and issuance of dealer's license. (1) Every person, before becoming a dealer in motor vehicle fuel in this state, shall make an application to the Department of Transportation for a license authorizing such person to engage in business as a dealer.

(2) Applications for the license must be made on forms prescribed, prepared and furnished by the department.

(3) The applications shall be accompanied by a duly acknowledged certificate containing:

(a) The name under which the dealer is transacting business within Oregon.

(b) The places of business and location of distributing stations of the dealer in Oregon.

(c) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent.

(4) If the dealer is an association of persons, firm, partnership or corporation organized under the laws of another state, territory or country, if it has not already done so, it must first comply with the laws of Oregon relating to the transaction of its appropriate business in Oregon.

(5) The application for a motor vehicle fuel dealer's license having been accepted for filing, and the bond required by ORS 319.050 having been accepted and approved, the department may issue to the dealer a license in such form as the department may prescribe to transact business as a dealer in the State of Oregon. The license so issued is not assignable, and is valid only for the dealer in whose name issued.

(6) The department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed dealers. [Amended by 1957 c.209 §2; 1999 c.769 §18]

319.042 Grounds for refusal to issue dealer license; hearing; records inspection. (1) The Department of Transportation may refuse to issue a dealer license to a person who applies as provided in ORS 319.040 if the department finds that the person:

(a) Was the holder of a license revoked under ORS 319.100;

(b) Is applying for a license on behalf of a real party in interest whose license was revoked under ORS 319.100;

(c) Was an officer, director, owner or managing employee of a nonindividual licensee whose license was revoked under ORS 319.100;

(d) Owes a debt to the state under ORS 319.010 to 319.430;

(e) Had a license issued by a jurisdiction other than Oregon to sell or buy untaxed motor vehicle fuel that was revoked or canceled for cause, whether the license was held by the person as an individual or as an officer, director, owner or managing employee or on behalf of a real party in interest;

(f) In any jurisdiction, pleaded guilty to or was convicted of a crime directly related to the sale, use or distribution of motor vehicle fuel, whether as an individual or as an officer, director, owner or managing employee of a business engaged in the sale or distribution of motor vehicle fuel;

(g) Had a civil judgment imposed for conduct involving fraud, misrepresentation, conversion or dishonesty, as an individual or as an officer, director, owner or managing employee of a business engaged in the sale or distribution of motor vehicle fuel;

(h) Misrepresented or concealed a material fact in obtaining a license or in the reinstatement thereof;

(i) Violated a statute or administrative rule regarding fuel taxation or distribution;

(j) Failed to cooperate with the department's investigations by:

(A) Not furnishing requested documents;

(B) Not furnishing when requested to do so a full and complete written explanation of a matter under investigation by the department; or

(C) Not responding to a subpoena issued by the department; or

(k) Failed to comply with an order issued by the department.

(2) In addition to refusal of a license for reasons specified in subsection (1) of this section, the department may refuse to issue a dealer license for any other reason the department deems sufficient.

(3) Before refusing to issue a license under this section, the department shall grant the applicant a hearing and shall give the applicant at least 10 days' written notice of

the time and place of the hearing. The hearing shall be a contested case hearing under the provisions of ORS chapter 183.

(4) For purpose of consideration of an application for a license, the department may inspect or investigate the records of this state or of any other jurisdiction to verify the information on the application and to verify the applicant's criminal and licensing history. [1999 c.769 §17]

Note: 319.042 was added to and made a part of 319.010 to 319.430 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.050 Performance bond; hearing. (1) At the time of filing the certificate and application for a dealer's license, the Department of Transportation shall require the dealer to file with the department, in a form prepared by the department, a bond executed by the dealer as principal with a corporate surety authorized to transact business in this state. The bond shall be payable to the State of Oregon conditioned upon performance of all the requirements of ORS 319.010 to 319.430, including the payment of all taxes, penalties and other obligations of the dealer arising out of ORS 319.010 to 319.430.

(2) Except as provided in ORS 319.051, 319.052 and 319.053, a bond under subsection (1) of this section shall be in an amount that is equivalent to twice the dealer's estimated monthly license tax, as determined by the department, or $250,000, whichever is less.

(3) The department may reduce or increase the required amount for a bond as provided in ORS 319.051 and 319.052.

(4) A bond given in connection with ORS 319.010 to 319.430 is a continuing instrument and covers any and all periods of time including the first and all subsequent periods for which a license may be granted in consequence of the giving of the bond. The liability of the surety on the bond for the aggregate of all claims that arise under the bond may not exceed the amount of the penalty of the bond. No recoveries on any bond or any execution of any new bond may invalidate any bond, but the total recoveries under any one bond may not exceed the amount of the bond.

(5) A dealer required under this section to obtain a bond may demand by proper petition a hearing on the necessity of the bond or the reasonableness of the amount required. The department shall grant the petition for a hearing and shall hold the hearing within 10 days after the demand for the hearing. The decision of the department becomes final 10 days after service of the order on the dealer. The hearing is not subject to the requirements of ORS 183.413 to 183.470. [Amended by 1967 c.359 §690; 1999 c.769 §12; 2003 c.52 §1]

319.051 Conditions for reduced bond amount. (1) For a dealer described in subsection (2) of this section, the bond required by the Department of Transportation under ORS 319.050 shall be in an amount that is equivalent to twice the dealer's estimated monthly license tax, as determined by the department, or $100,000, whichever is less.

(2) The provisions of subsection (1) of this section apply to a dealer who held a valid dealer's license on October 23, 1999, issued under ORS 319.010 to 319.430, and who, since October 23, 1999, has:

(a) Not been required to file a bond greater than $100,000; and

(b) Performed, as determined by the department, the requirements of ORS 319.010 to 319.430, including the payment of all taxes, penalties and other obligations of the dealer arising out of ORS 319.010 to 319.430. [2003 c.52 §3]

Note: 319.051 to 319.053 were added to and made a part of 319.010 to 319.430 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.052 Conditions for increased bond amount; request and conditions for reduction; rules. (1) The Department of Transportation shall increase a dealer's bond filed under ORS 319.050 to an amount that is equivalent to twice the dealer's estimated monthly license tax, as determined by the department, or $1 million, whichever is less, if, within a 24-month period, the dealer:

(a) Was late three or more times in filing reports or making payments to the department;

(b) Had three or more checks or electronic funds transfers to the department dishonored for lack of funds or credit;

(c) Failed to maintain or make available a record of all purchases, receipts, sales and distribution of motor vehicle fuel as required under ORS 319.390; or

(d) Had a motor vehicle fuel dealer license issued in this state or another jurisdiction revoked.

(2) The department may waive an increase in the bond amount under subsection (1) of this section if the department determines that the dealer did not intend to avoid payment of license taxes when the dealer engaged in the conduct described in subsection (1)(a), (b) or (c) of this section or when the dealer engaged in the conduct that led to the license revocation described in subsection (1)(d) of this section. If the department waives an increase in the bond amount, the bond shall remain at an amount that is:

(a) Required under ORS 319.051 for a dealer described in ORS 319.051; or

(b) Required under ORS 319.050.

(3) If the department increases the bond amount as provided in subsection (1) of this section, the dealer may, after 24 months, request in writing that the department reduce the bond amount. The department shall reduce the bond amount if the department determines that the dealer, in the 24 months prior to the dealer's written request:

(a) Filed timely reports and made timely payments;

(b) Had no checks or electronic funds transfers to the department dishonored for lack of funds or credit;

(c) Maintained and made available a record of all purchases, receipts, sales and distribution of motor vehicle fuel as required under ORS 319.390; and

(d) Did not have a motor vehicle fuel dealer license issued in this state or another jurisdiction revoked.

(4) If the department determines that the dealer met all of the requirements under subsection (3) of this section, the department shall reduce the bond required of a dealer described in ORS 319.050 or a dealer described in ORS 319.051 to an amount that is equivalent to twice the dealer's estimated monthly license tax, as determined by the department, or $250,000, whichever is less.

(5) If the department determines that the dealer failed to meet the requirements under subsection (3) of this section and that the failure was not due to the dealer's intent to avoid payment of license taxes, the department may reduce the bond required of a dealer described in ORS 319.050 or a dealer described in ORS 319.051 to an amount that is equivalent to twice the dealer's estimated monthly license tax, as determined by the department, or $250,000, whichever is less.

(6) For purposes of this section, the department shall adopt rules establishing what constitutes evidence that a dealer did not intend to avoid payment of license taxes. [2003 c.52 §4]

Note: See note under 319.051.

319.053 Amount of bond when twice license tax is less than $1,000. If the amount that is equivalent to twice the amount of a dealer's estimated monthly license tax, as determined by the Department of Transportation, is an amount that is less than $1,000, the bond amount required by ORS 319.050, 319.051 or 319.052 shall be $1,000. [2003 c.52 §5]

Note: See note under 319.051.

319.060 Deposit in lieu of bond. In lieu of the bond or bonds in total amount as fixed under ORS 319.050, 319.051, 319.052 or 319.053, any dealer may deposit with the State Treasurer, under such terms and conditions as the Department of Transportation may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the State of Oregon, or any county of this state, of an actual market value not less than the amount so fixed by the department. [Amended by 2003 c.52 §7]

319.070 Release of surety. Any surety on a bond furnished by a dealer as provided in ORS 319.050 shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of 30 days from the date upon which the surety has lodged with the Department of Transportation a written request to be released and discharged, but this provision shall not operate to relieve, release or discharge the surety from any liability already accrued or which accrues before the expiration of the 30-day period. The department shall promptly, upon receiving the request, notify the dealer who furnished the bond, and unless the dealer, on or before the expiration of the 30-day period, files a new bond, or makes a deposit in accordance with the requirements of ORS 319.050 and 319.060, the department forthwith shall cancel the dealer's license.

319.080 Additional bond or deposit. The Department of Transportation may require a dealer to give a new or additional surety bond or to deposit additional securities of the character specified in ORS 319.060 if, in its opinion, the security of the surety bond theretofore filed by the dealer, or the market value of the properties deposited as security by the dealer, becomes impaired or inadequate. Upon failure of the dealer to give the new or additional surety bond or to deposit additional securities within 10 days after being requested so to do by the department, the department forthwith shall cancel the license of the dealer.

319.090 Immediate collection of tax and interest; penalties; waiver. (1) If any dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and bond and securing the license required by ORS 319.030, the license tax provided in ORS 319.020 shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.

(2) Except as otherwise provided in this subsection, the Department of Transportation shall proceed forthwith to determine, from the best available sources, the amount of such tax, and it shall immediately assess the

tax and interest in the amount found due, together with a penalty of 100 percent of the tax, and shall make its certificate of such assessment and penalty. The department may waive all or part of a penalty imposed under this subsection if the department determines that a violation of the requirement under this section to file the certificate and bond or to secure the license was due to reasonable cause and without intent to avoid payment of the tax. In any suit or proceeding to collect such tax, interest or penalty, the certificate is prima facie evidence that the dealer therein named is indebted to the State of Oregon in the amount of the tax, interest and penalty therein stated. [Amended by 1981 c.396 §1; 1989 c.664 §3; 1999 c.769 §5]

319.096 Suspension of license; liability for tax; reinstatement. (1) The Department of Transportation may, prior to a hearing, suspend the license of a motor vehicle fuel dealer who refuses or neglects to comply with the provisions of ORS 319.010 to 319.430 until the dealer complies with the provisions of ORS 319.010 to 319.430.

(2) Upon suspension of a dealer's license under subsection (1) of this section, the department shall immediately notify:

(a) The dealer by certified mail of the dealer's license suspension and the dealer's right to request an immediate hearing to contest the license suspension; and

(b) All other licensed motor vehicle fuel dealers by a method determined under ORS 319.102 that the authority of the dealer to purchase tax-deferred motor vehicle fuel has been suspended.

(3) If a licensed motor vehicle fuel dealer sells tax-deferred motor vehicle fuel to a dealer whose license has been suspended under subsection (1) of this section after the third day after the selling dealer receives notice of the suspension under subsection (2) of this section, the selling dealer and the suspended dealer are jointly and severally liable for the tax owed on the sale of the fuel.

(4)(a) Notwithstanding the joint and several liability of the selling dealer and the suspended dealer under subsection (3) of this section, the department shall attempt to collect from the suspended dealer the tax owed on the fuel for a period of 45 days from the date of the sale to the suspended dealer.

(b) After the expiration of the 45-day period under this subsection, the department shall collect from the selling dealer any tax not collected from the suspended dealer under this subsection.

(5) The department shall waive the liability of a selling dealer under subsection (3) of this section if the selling dealer establishes to the satisfaction of the department that:

(a) The sale of the motor vehicle fuel to the suspended dealer was due to circumstances that were beyond the control of the selling dealer; or

(b) The dealer whose license was suspended engaged in fraud or deceit to avoid timely payment of the tax to the selling dealer.

(6) When a dealer whose license has been suspended under subsection (1) of this section complies with the provisions of ORS 319.010 to 319.430, the department shall reinstate the dealer's license and shall notify by a method determined under ORS 319.102 all licensed motor vehicle fuel dealers that the dealer's license has been reinstated and that the dealer is authorized to purchase tax-deferred fuel.

(7) If the department determines that a dealer whose license has been suspended under subsection (1) of this section is unwilling or unable to comply with the provisions of ORS 319.010 to 319.430, the department shall revoke the license of the dealer as provided in ORS 319.100. [2003 c.113 §2]

Note: 319.096, 319.098 and 319.102 were added to and made a part of 319.010 to 319.430 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.098 Contesting license suspension. A dealer whose license has been suspended by the Department of Transportation under ORS 319.096 may contest the suspension as provided in ORS chapter 183. [2003 c.113 §3]

Note: See note under 319.096.

319.100 Revocation of license. (1) The Department of Transportation shall revoke the license of any dealer whose license has been suspended under ORS 319.096 and who the department determines is unwilling or unable to comply with the provisions of ORS 319.010 to 319.430.

(2) The department shall mail by certified mail addressed to the dealer at the last-known address in the files of the department, a notice of intention to revoke the dealer's license. The notice shall give the reason for the revocation of the license.

(3) The license revocation becomes effective without further notice if within 10 days from the mailing of the notice the dealer has not complied with the provisions of ORS 319.010 to 319.430.

(4) The department shall provide notice of the revocation of the license of a dealer under this section to all other licensed motor vehicle fuel dealers by a method determined under ORS 319.102. [1989 c.664 §4; 2003 c.113 §4]

319.102 Notice to dealers of suspension or revocation of another dealer's license; rules. The Department of Transportation shall establish by rule the most efficient method of notifying licensed motor vehicle fuel dealers as required under ORS 319.096 and 319.100 that a dealer's license has been suspended, revoked or reinstated. The possible methods may include, but need not be limited to, notice by telephone, electronic mail or regular mail. [2003 c.113 §5]

Note: See note under 319.096.

319.110 Cancellation of license on request of dealer or when licensee no longer a dealer. (1) The Department of Transportation may, upon written request of a dealer, cancel any license issued to such dealer, the cancellation to become effective 30 days from the date of receipt of the written request.

(2) If the department ascertains and finds that the person to whom a license has been issued is no longer engaged in the business of a dealer, the department may cancel the license of such dealer upon investigation after 30 days' notice has been mailed to the last-known address of the dealer.

319.120 Remedies cumulative. Except as otherwise provided in ORS 319.180 and 319.200, the remedies of the state provided in ORS 319.090, 319.100 and 319.110 are cumulative. No action taken pursuant to those statutes shall relieve any person from the penal provisions of ORS 319.010 to 319.430 and 319.990. [Amended by 1967 c.54 §1; 1999 c.769 §7]

319.125 Change of ownership; cancellation of license. A licensed dealer who has a change of ownership shall notify the Department of Transportation immediately of the change. Upon notification, the department shall immediately cancel the motor vehicle fuel dealer license of the dealer. No license may be issued to any successor of the dealer until the successor completes an application and certificate and supplies the department with an adequate bond. For purposes of this section:

(1) In the case of a corporation with more than 100 stockholders, transfer of stock in normal trading is not considered a change in ownership.

(2) In the case of a corporation with 100 or fewer stockholders, transfer of less than 50 percent of the stock in any period of 12 consecutive months is not considered a change in ownership. [1987 c.610 §21]

Note: 319.125 was added to and made a part of 319.010 to 319.430 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.130 [Repealed by 1987 c.610 §23]

319.140 [Amended by 1959 c.505 §3; 1987 c.158 §50a; 1987 c.610 §3; repealed by 1989 c.664 §6]

319.150 [Repealed by 1989 c.664 §6]

319.160 [Amended by 1957 c.209 §3; 1959 c.505 §4; 1967 c.359 §691; 1987 c.610 §4; repealed by 1989 c.664 §6]

319.170 [Amended by 1987 c.610 §5; repealed by 1989 c.664 §6]

319.180 Payment of tax; delinquency penalty; interest rates. (1) The license tax imposed by ORS 319.020 shall be paid on or before the 25th day of each month to the Department of Transportation which, upon request, shall receipt the dealer therefor.

(2) Except as provided in subsection (4) of this section, to any license tax not paid as required by subsection (1) of this section there shall be added a penalty of one percent of such license tax.

(3) Except as provided in subsection (4) of this section, if the tax and penalty required by subsection (2) of this section are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of 10 percent shall be paid in addition to the penalty provided for in subsection (2) of this section.

(4) If the department determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by subsections (2) and (3) of this section may be waived. Penalties imposed by this section shall not apply when the penalty provided in ORS 319.090 has been assessed and paid.

(5)(a) If the license tax imposed by ORS 319.020 is not paid as required by subsection (1) of this section, interest shall be charged at the rate of 0.0329 percent per day until the tax and interest have been paid in full.

(b) If the license tax imposed by ORS 319.020 is overpaid, the department may credit interest to the account of the taxpayer in the amount of 0.0329 percent per day up to a maximum amount that equals any interest assessed against the taxpayer under paragraph (a) of this subsection in any given audit period.

(6) No dealer who incurs a tax liability as provided for in ORS 319.010 to 319.430, shall knowingly and willfully fail to report and pay the same to the department as required by ORS 319.010 to 319.430. [Amended by 1955 c.730 §3; 1957 c.209 §4; 1959 c.505 §5; 1963 c.226 §2; 1967 c.54 §2; 1979 c.344 §4; 1987 c.610 §6; 1989 c.664 §5; 1999 c.769 §6]

319.182 Collection of delinquent tax, interest or penalty; warrant; judgment lien. (1) If a person fails to pay in full any tax, interest or penalty due under ORS 319.010 to 319.430, the Department of Transportation may issue a warrant for the amount due, with the added penalties or

charges, interest and the cost of executing the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer found within that county, and to levy upon any currency of the taxpayer found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect taxes, and in the execution of the warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. [1999 c.769 §2; 2003 c.576 §200; 2011 c.661 §3]

Note: 319.182, 319.184 and 319.186 were added to and made a part of 319.010 to 319.430 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.184 Use of collection agency. (1) The Department of Transportation may engage the services of a collection agency to collect any of the taxes, interest and penalties due to the state under ORS 319.010 to 319.430. The department may engage the services by entering into agreements to pay reasonable charges on a contingent fee or other basis.

(2) The department may assign to the collection agency, for collection purposes only, any of the taxes, interest and penalties due the state under ORS 319.010 to 319.430.

(3) The collection agency may bring such actions or take such proceedings, including attachment and garnishment proceedings, as may be necessary. [1999 c.769 §3]

Note: See note under 319.182.

319.186 Uncollectible tax, interest or penalty. (1) Any tax, interest or penalty due the state assigned to a collection agency pursuant to ORS 319.184 that remains uncollected for two years after the date of the assignment meets the criteria for uncollectibility formulated pursuant to ORS 293.240.

(2) ORS 293.245 applies to any tax, interest or penalty due the state and described in subsection (1) of this section. [1999 c.769 §4; 2011 c.223 §2]

Note: See note under 319.182.

319.190 Monthly statement of dealer; penalty; rules. (1) Every dealer in motor vehicle fuel shall render to the Department of Transportation, on or before the 25th day of each month, on forms prescribed, prepared and furnished by the department, and in the manner provided by the department by rule, a signed statement of the number of gallons of motor vehicle fuel sold, distributed or used by the dealer during the preceding calendar month. The statement shall be signed by one of the principal officers, or by an authorized agent in case of a corporation; or by the managing agent or owner in case of a firm or association.

(2) The signed statement filed with the department as required by this section is a public record. All other documents, including supporting schedules and information received from other taxing jurisdictions and entities, shall be kept confidential and exempt from public inspection except that such information may be shared with tax collecting entities in other jurisdictions on the condition that the receiving jurisdiction agrees to keep such information confidential. If a statement is not received on or before the 25th day of each month, a penalty shall be assessed pursuant to ORS 319.180 or, if the department determines that no tax is due, a penalty of $25 shall be assessed. [Amended by 1955 c.730 §4; 1957 c.209 §5; 1987 c.610 §7; 2011 c.101 §2]

319.192 Refund to dealer of uncollectible taxes; rules. (1) Upon application to the Department of Transportation, a motor vehicle fuel dealer may obtain a refund of the tax paid to the department on sales of motor vehicle fuel if:

(a) The dealer has received less than full consideration for the fuel from or on behalf of a purchaser;

(b) The account has been declared by the dealer to be an uncollectible account receivable and meets all applicable standards for deductibility for federal income tax purposes pursuant to the Internal Revenue Code; and

(c) The dealer has not previously received a refund from the department for mo-

tor vehicle fuel taxes not paid by the same purchaser.

(2) For purposes of determining the amount of a refund due under this section, the amount of consideration received by the motor vehicle fuel dealer shall be apportioned between the charges for the motor vehicle fuel and the tax for the fuel. The amount of the tax refunded may not exceed the amount of tax paid under ORS 319.020.

(3) If the motor vehicle fuel dealer who receives a refund under this section subsequently collects any amount from any source for the account declared uncollectible, the amount collected shall be apportioned between the charges for the motor vehicle fuel and the corresponding tax for the fuel. The motor vehicle fuel tax collected shall be returned to the department.

(4) The department shall adopt rules governing the process of applying for and receiving refunds under this section. [2003 c.307 §2]

Note: 319.192 was added to and made a part of 319.010 to 319.430 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.200 Assessing tax and penalty where dealer fails to report. If any dealer, except one subject to ORS 319.090, fails to file the report required by ORS 319.190, the Department of Transportation shall proceed forthwith to determine from the best available source the amount of motor vehicle fuel sold, distributed or used by such dealer for the period unreported, and such determination shall be prima facie evidence of the amount of such fuel sold, distributed or used. The department immediately shall assess the license tax in the amount so determined, adding thereto a penalty of 10 percent for failure to report. The penalty shall be cumulative of other penalties provided in ORS 319.010 to 319.430 and 319.990. In any suit brought to enforce the rights of the state under this section, the certificate of the department showing the amount of taxes, penalties, interest and costs unpaid by any dealer and that the same are due and unpaid to the state is prima facie evidence of the facts as shown. [Amended by 1967 c.54 §3; 1987 c.610 §8]

319.210 Billing purchasers. Bills shall be rendered to all purchasers of motor vehicle fuel by dealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the Department of Transportation the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the department are maintained. [Amended by 1955 c.730 §5; 1987 c.610 §9]

319.220 Receipt, payment or sale of motor vehicle fuel without invoice or delivery tag prohibited. No person shall receive and accept any shipment of motor vehicle fuel from any dealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer in motor vehicle fuel. [Amended by 1955 c.730 §6; 1987 c.610 §10]

319.230 Transporting motor vehicle fuel in bulk. Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of this state with such conveyance, have and possess during the entire time of hauling or transporting such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any sheriff, deputy sheriff, constable, state police or other officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement. [Amended by 1957 c.209 §6]

319.240 Exemption of export fuel. (1) The license tax imposed by ORS 319.020 may not be imposed on motor vehicle fuel that is exported by a dealer:

(a) From this state to another state, territory or country, not including a federally recognized Indian reservation located wholly or partially within the borders of this state, where the motor vehicle fuel is unloaded; and

(b) Who has a valid motor vehicle fuel dealer's license or its equivalent issued by the state, territory or country to which the fuel is exported and where it is unloaded.

(2) In support of any exemption from license taxes claimed under this section other than in the case of stock transfers or deliveries in equipment, every dealer must execute and file with the Department of Transportation an export certificate in such form as shall be prescribed, prepared and furnished by the department, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the State of Oregon, and giving such details with reference to such shipment as the department may require. All export certificates in support of shipments to other states, territories or countries must be completed and on file in the principal office of the dealer in this state within three

months after the close of the calendar month in which the shipments to which they relate are made, unless the state, territory or country of destination would not be prejudiced with respect to its collection of taxes thereon if the certificate is not filed within such time. The department may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The department may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.

(3) Any motor vehicle fuel carried from this state in the fuel tank of a motor vehicle shall not be considered as exported from this state, except that a refund of the tax may be paid on such fuel as provided in ORS 319.280 (1)(d).

(4) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export upon which the Oregon tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or shall divert the motor vehicle fuel or any portion thereof, or shall cause it to be diverted from interstate or foreign transit begun in this state, or shall unlawfully return the motor vehicle fuel or any portion thereof to be used or sold in this state and fail to notify the department and the dealer from whom the motor vehicle fuel was originally purchased of the person's act.

(5) No dealer or other person shall conspire with any person to withhold from export, or divert from interstate or foreign transit begun in this state, or to return motor vehicle fuel to this state for sale or use so as to avoid any of the taxes imposed by ORS 319.010 to 319.430. [Amended by 1953 c.82 §2; 1955 c.730 §7; 1959 c.186 §1; 1963 c.257 §1; 1987 c.610 §11; 2003 c.56 §1]

319.250 Certain sales to Armed Forces exempted; reports. The license tax imposed by ORS 319.020 shall not be imposed on any aircraft or motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from this state; but every dealer shall be required to report such sales to the Department of Transportation in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate. [Amended by 1955 c.730 §8; 1959 c.186 §2; 1961 c.43 §1; 1987 c.610 §12]

319.260 Fuel in vehicles coming into or leaving state not taxed. Any person coming into or leaving Oregon in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for the purpose of operating such motor vehicle, without complying with any of the provisions imposed upon dealers by ORS 319.010 to 319.430. However, if motor vehicle fuel so brought into the state is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into this state shall be subject to all the provisions of ORS 319.010 to 319.430 and 319.990 applying to dealers. [Amended by 1987 c.610 §12a]

319.270 Fuel sold or distributed to dealers. (1) Notwithstanding ORS 319.020, if the first sale, use or distribution of motor vehicle fuel or aircraft fuel is from one licensed dealer to another licensed dealer, the selling or distributing dealer is not required to pay the license tax imposed by ORS 319.020. When the purchasing or receiving dealer first sells, uses or distributes the fuel, that dealer shall pay the license tax regardless of whether the sale, use or distribution is to another licensed dealer.

(2) A dealer who renders monthly statements to the Department of Transportation as required by ORS 319.020 and 319.190 shall show separately the number of gallons of motor vehicle fuel sold or delivered to dealers. [Amended by 1987 c.610 §13]

319.275 Liability for taxes, interest and penalties when person importing fuel does not hold license. (1) A person who is not a licensed dealer shall not accept or receive motor vehicle or aircraft fuel in this state from a person who imports motor vehicle or aircraft fuel who does not hold a valid motor vehicle fuel dealer license in this state. If a person who is not a licensed dealer accepts or receives motor vehicle fuel or aircraft fuel from a person who imports motor vehicle fuel or aircraft fuel and does not hold a valid motor vehicle fuel dealer license in this state, the purchaser or receiver shall be liable for all taxes, interest and penalties contained in ORS 319.010 to 319.430.

(2) A licensed dealer who accepts or receives motor vehicle fuel or aircraft fuel in this state from a person who imports motor vehicle or aircraft fuel who does not hold a valid dealer license in this state shall pay the tax imposed by ORS 319.020 to the Department of Transportation upon the first sale, use or distribution of the motor vehicle fuel or aircraft fuel. [1987 c.610 §22; 1991 c.863 §§18a,21a]

319.280 Refunds generally. (1) Any person who has paid any tax on motor vehicle fuel levied or directed to be paid by ORS 319.010 to 319.430 either directly by the collection of the tax by the vendor from the consumer, or indirectly by adding the amount of the tax to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of such tax paid, except as provided in ORS 319.290 to 319.330, if such person has:

(a) Purchased and used such fuel for the purpose of operating or propelling a stationary gas engine, a tractor or a motor boat, if the motor boat is used for commercial purposes at any time during the period for which the refund is claimed;

(b) Purchased and used such fuel for cleaning or dyeing or other commercial use, except when used in motor vehicles operated upon any highway;

(c) Purchased and exported such fuel from this state, in containers other than fuel supply tanks of motor vehicles, provided that the person:

(A) Exports the motor vehicle fuel from this state to another state, territory or country, not including a federally recognized Indian reservation located wholly or partially within the borders of this state, where the motor vehicle fuel is unloaded; and

(B) Has a valid motor vehicle fuel dealer's license or its equivalent issued by the state, territory or country to which the fuel is exported and where it is unloaded;

(d) Purchased and exported such fuel in the fuel supply tank of a motor vehicle and has used such fuel to operate the vehicle upon the highways of another state, if the user has paid to the other state a similar motor vehicle fuel tax on the same fuel, or has paid any other highway use tax the rate for which is increased because such fuel was not purchased in, and the tax thereon paid, to such state; or

(e) Purchased and used such fuel for small engines that are not used to propel motor vehicles on highways, including but not limited to those that power lawn mowers, leaf blowers, chain saws and similar implements.

(2) When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor for such equipment or separate tank for such a motor, a refund may be claimed and allowed as provided by subsection (4) of this section, except as otherwise provided by this subsection, without the necessity of furnishing proof of the amount of fuel used in the operation of the auxiliary equipment. The person claiming the refund may present to the Department of Transportation a statement of the claim and be allowed a refund as follows:

(a) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or heating oils or other petroleum products by a power take-off unit on a delivery truck, refund shall be allowed claimant for tax paid on fuel purchased at the rate of three-fourths of one gallon for each 1,000 gallons of petroleum products delivered.

(b) For fuel used in operating a power take-off unit on a cement mixer truck or on a garbage truck, claimant shall be allowed a refund of 25 percent of the tax paid on all fuel used in such a truck.

(3) When a person purchases and uses motor vehicle fuel in a vehicle equipped with a power take-off unit, a refund may be claimed for fuel used to operate the power take-off unit provided the vehicle is equipped with a metering device approved by the department and designed to operate only while the vehicle is stationary and the parking brake is engaged; the quantity of fuel measured by the metering device shall be presumed to be the quantity of fuel consumed by the operation of the power take-off unit.

(4) Before any such refund may be granted, the person claiming such refund must present to the department a statement, accompanied by the original invoices, or reasonable facsimiles approved by the department, showing such purchases; provided that in lieu of original invoices or facsimiles, refunds submitted under subsection (1)(d) of this section shall be accompanied by information showing source of the fuel used and evidence of payment of tax to the state in which the fuel was used. The statement shall be made over the signature of the claimant, and shall state the total amount of such fuel for which the claimant is entitled to be reimbursed under subsection (1) of this section. The department upon the presentation of the statement and invoices or facsimiles, or other required documents, shall cause to be repaid to the claimant from the taxes collected on motor vehicle fuel such taxes so paid by the claimant. [Amended by 1959 c.186 §3; 1963 c.257 §2; 1969 c.465 §1; 1971 c.163 §1; 1973 c.135 §1; 1985 c.152 §1; 1997 c.364 §1; 2001 c.820 §4; 2003 c.56 §2; 2013 c.781 §19; 2019 c.428 §5]

319.290 Limitation on applications for refunds. Applications for refunds made under ORS 319.280, 319.320 and 319.330 must be filed with the Department of Transportation before the expiration of 15 months from the date of purchase or invoice, except that unused fuel reported as an ending inventory on any claim may be included in a subsequent claim if presented not later than 15 months from the filing date of the claim which established the inventory. All applications for

refunds based upon exportation of motor vehicle fuel from this state in the fuel supply tank of a motor vehicle must be filed with the department before the expiration of 15 months from the last day of the month in which the fuel was used, or before the expiration of 15 months from the date of an assessment for unpaid tax by the state in which the fuel was used. [Amended by 1955 c.730 §9; 1963 c.257 §3; 1979 c.344 §5]

319.300 Seller to give invoice for each purchase made by person entitled to refund. (1) When motor vehicle fuel is sold to a person who claims to be entitled to a refund of the tax imposed, the seller of the motor vehicle fuel shall make and deliver at the time of the sale separate invoices for each purchase in such form and containing any information prescribed by the Department of Transportation.

(2) The invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof. Any person who alters any part of any invoice that will tend to give to the claimant an illegal gain, shall have the entire claim invalidated. The seller shall for a period of at least 18 months retain copies of all invoices and make them available to the department upon request. [Amended by 1953 c.77 §2; 1955 c.730 §10; 1957 c.209 §7]

319.310 Claims for refunds may be required to be under oath; investigation of claims. (1) The Department of Transportation may require any person who makes claim for refund of tax upon motor vehicle fuel to furnish a statement, under oath, giving the occupation, description of the machines or equipment in which the motor vehicle fuel was used, the place where used and such other information as the department may require.

(2) The department may investigate claims and gather and compile such information in regard to the claims as it considers necessary to safeguard the state and prevent fraudulent practices in connection with tax refunds and tax evasions. The department may, in order to establish the validity of any claim, examine the books and records of the claimant for such purposes. The records shall be sufficient to substantiate the accuracy of the claim and shall be in such form and contain such information as the department may require. Failure of the claimant to maintain such records or to accede to the demand for such examination constitutes a waiver of all rights to the refund claimed on account of the transaction questioned. [Amended by 1959 c.186 §4]

319.320 Refund of tax on fuel used in operation of vehicles over certain roads or private property. (1) Upon compliance with subsection (2) or (3) of this section the Department of Transportation shall refund, in the manner provided in subsection (2) or (3) of this section, the tax on motor vehicle fuel that is used in the operation of a motor vehicle:

(a) By any person on any road, thoroughfare or property in private ownership.

(b) By any person on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

(A) An agency of the United States;

(B) The State Board of Forestry;

(C) The State Forester; or

(D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph.

(c) By an agency of the United States or of this state or of any county, city or port of this state on any road, thoroughfare or property, other than a state highway, county road or city street.

(d) By any person on any county road for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, if:

(A) The use of the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such person to use such road and requiring such person to pay for or to perform the construction or maintenance of the county road;

(B) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of such county road; and

(C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this paragraph are filed with the department.

(2) Except for a farmer subject to subsection (3) of this section, the person or agency, as the case may be, who has paid any tax on such motor vehicle fuels levied or directed to be paid, as provided by ORS 319.010 to 319.430, is entitled to claim a refund of the tax so paid on such fuels or for the proportionate part of tax paid on fuels

used in the operation of such vehicles, when part of the operations are over such roads, thoroughfares or property. The proportionate part shall be based upon the number of miles traveled by any such vehicle over such roads, thoroughfares or property as compared to the total number of miles traveled by such vehicle. To be eligible to claim such refund the person or agency, as the case may be, shall first establish and maintain a complete record of the operations, miles traveled, gallons of fuel used and other information, in such form and in such detail as the department may prescribe and require, the source of supply of all fuels purchased or used, and the particular vehicles or equipment in which used. Whenever any such claim is received and approved by the department, it shall cause the refund of tax to be paid to the claimant in like manner as provided for paying of other refund claims.

(3) A farmer who has paid any tax on motor vehicle fuels levied or directed to be paid, as provided in ORS 319.010 to 319.430, is entitled to claim a refund of the tax paid on such fuels used in farming operations in the operation of any motor vehicle on any road, thoroughfare or property in private ownership. To be eligible to claim such refund a farmer shall maintain in such form and in such detail as the department may prescribe and require, a record, supported by purchase invoices, of all such motor vehicle fuel purchased (including fuel purchased to operate any motor vehicle on the highway) and, for each and every motor vehicle operated on the highway, a record of all fuel used and of all miles traveled on the highway. Whenever any such claim is received and approved by the department, it shall cause the refund of tax to be paid to the claimant in like manner as provided for paying of other refund claims.

(4) As used in subsections (2) and (3) of this section, "farmer" includes any person who manages or conducts a farm for the production of livestock or crops but does not include a person who manages or conducts a farm for the production of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or of forest trees unless the production of such forest products or forest trees is only incidental to the primary purpose of the farming operation. [Amended by 1961 c.368 §1; 1965 c.64 §1; 1965 c.425 §2; 1967 c.367 §2; 1979 c.344 §6]

319.330 Refunds to purchasers of fuel for aircraft. (1) Whenever any statement and invoices are presented to the Department of Transportation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department shall refund the tax paid, but only after deducting from the tax paid 11 cents for each gallon of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine engines (turbo-prop or jet) the deduction shall be three cents for each gallon. No deduction provided under this subsection shall be made on claims presented by the United States or on claims presented where a satisfactory showing has been made to the department that such aircraft fuel has been used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States. The amount so deducted shall be paid on warrant of the Oregon Department of Administrative Services to the State Treasurer, who shall credit the amount to the State Aviation Account for the purpose of carrying out the provisions of the state aviation law. Moneys credited to the account under this section are continuously appropriated to the Oregon Department of Aviation.

(2) If satisfactory evidence is presented to the Department of Transportation showing that aircraft fuel upon which the tax has been paid has been purchased and used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States, the department shall refund the tax paid. [Amended by 1959 c.505 §6; 1973 c.575 §1; 1977 c.293 §2; 1999 c.935 §26; 1999 c.1037 §§2,4; 2005 c.755 §16; 2015 c.700 §2]

Note: The amendments to 319.330 by section 5, chapter 700, Oregon Laws 2015, apply to fuel purchased and used in operating aircraft engines on or after January 1, 2022. See section 6, chapter 700, Oregon Laws 2015. The text that applies to fuel purchased and used in operating aircraft engines on or after January 1, 2022, is set forth for the user's convenience.

319.330. (1) Whenever any statement and invoices are presented to the Department of Transportation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department shall refund the tax paid, but only after deducting from the tax paid nine cents for each gallon of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine engines (turbo-prop or jet) the deduction shall be one cent for each gallon. No deduction provided under this subsection shall be made on claims presented by the United States or on claims presented where a satisfactory showing has been made to the department that such aircraft fuel has been used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States. The amount so deducted shall be paid on warrant of the Oregon Department of Administrative Services to the State Treasurer, who shall credit the amount to the State Aviation Account for the purpose of carrying out the provisions of the state aviation law. Moneys credited to the account under this section are continuously appropriated to the Oregon Department of Aviation.

(2) If satisfactory evidence is presented to the Department of Transportation showing that aircraft fuel upon which the tax has been paid has been purchased

and used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States, the department shall refund the tax paid.

319.340 [Amended by 1959 c.203 §1; repealed by 1979 c.344 §11]

319.350 [Amended by 1971 c.118 §1; repealed by 1979 c.344 §11]

319.360 [Amended by 1957 c.209 §8; repealed by 1979 c.344 §11]

319.370 Examinations and investigations; correcting reports and payments. The Department of Transportation, or its duly authorized agents, may make any examination of the accounts, records, stocks, facilities and equipment of dealers, brokers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this state, and such other investigations as it considers necessary in carrying out the provisions of ORS 319.010 to 319.430. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the department pursuant to the requirements of ORS 319.010 to 319.430, have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax, penalty or interest accruing thereon, the department may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations. [Amended by 1987 c.610 §14]

319.375 Limitation on credit for or refund of overpayment and on assessment of additional tax. (1) Except as otherwise provided in ORS 319.010 to 319.430, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within three years after the date on which the overpayment was made to the state.

(2) Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under ORS 319.010 to 319.430 shall be served on dealers within three years from the date upon which such additional taxes become due. [1955 c.730 §14; 1987 c.610 §15]

319.380 Examining books and accounts of carrier of motor vehicle fuel. The Department of Transportation or its duly authorized agents may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within this state for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of taxes on same in enforcing the provisions of ORS 319.010 to 319.430.

319.382 Agreements for refunds to Indian tribes. Notwithstanding any other provision of law, the Department of Transportation may enter into agreements with the governing body of any Indian tribe residing on a reservation in Oregon to provide refunds to the tribe of state motor vehicle fuel taxes for fuel purchased on the reservation and used by tribal members on tribal reservation lands, other than for motor vehicle fuel used on state highways, county roads or city streets supported by the State Highway Fund. [1993 c.706 §2]

Note: 319.382 was added to and made a part of 319.010 to 319.430 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.390 Records to be kept by dealers; inspection of records. Every dealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the Department of Transportation of all purchases, receipts, sales and distribution of motor fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the department or its deputies or other officers duly authorized by the department. Upon request from the officials to whom is entrusted the enforcement of the motor fuel tax law of another state, territory, country or the federal government, the department shall forward to such officials any information which it may have relative to the import or export of any motor vehicle fuel by any dealer, provided such other state, territory, country or federal government furnishes like information to this state. [Amended by 1955 c.730 §11; 1987 c.610 §16]

319.400 Records to be kept three years. Every dealer shall maintain and keep, within the State of Oregon, for a period of three years, all records of motor vehicle fuel used, sold and distributed within this state by such dealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Department of Transportation. [Amended by 1955 c.730 §12; 1987 c.610 §17]

319.410 Disposition of tax moneys. (1) The Department of Transportation shall promptly turn over the license tax to the State Treasurer to be disposed of as provided in ORS 802.110.

(2) The revenue from the license tax collected from the use, sale or distribution of aircraft fuel as imposed by ORS 319.020 (2) shall be transferred upon certification of the department to the State Treasurer, who shall credit the certified amount to the State Aviation Account for the purpose of carrying

out the provisions of the state aviation laws. [Amended by 1955 c.287 §20; 1961 c.146 §2; 1963 c.226 §3; 1969 c.70 §1; 1983 c.338 §909; 1993 c.741 §29; 1999 c.935 §27; 2005 c.755 §17]

319.415 Estimate of tax on fuel used for boats; transfer to specified funds and accounts; use. (1) On or before July 15 of each year, the Oregon Department of Administrative Services, after consultation with the Department of Transportation and the State Marine Board, shall determine the amount of the motor vehicle fuel tax imposed under ORS 319.010 to 319.430 during the preceding fiscal year with respect to fuel purchased and used to operate or propel motor boats. The amount determined shall be reduced by the amount of any refunds for motor boats used for commercial purposes actually paid during the preceding year on account of ORS 319.280 (1)(a).

(2)(a) The Oregon Department of Administrative Services shall estimate the amount of fuel described in subsection (1) of this section that is used to operate or propel motor boats by conducting a statistically valid, unbiased, independent survey of boat owners. The survey shall be conducted once every four years and shall be designed to estimate the average daily fuel consumption by motor boats and the total days of motor boat use per year. The survey shall be used to determine the amount of the transfer required by subsection (3) of this section for the first transfer that occurs after the survey is completed. If the tax rate changes during the fiscal year, the amount of tax to be transferred shall be prorated based on the percentage of total motor boat use taking place during each tax period.

(b) In years when no survey is conducted, the amount to be transferred under subsection (3) of this section shall be calculated by multiplying the per boat fuel consumption factors from the preceding survey by the number of motor boats as shown by the annual actual count of boat registrations. The resulting amount, in gallons per year, shall be the basis for the determination of the amount to be transferred.

(c) The survey required by paragraph (a) of this subsection shall be developed by a research department within Oregon State University, in consultation with the State Marine Board and the Department of Transportation. The Oregon Department of Administrative Services shall contract for the development and conduct of the survey, and the costs shall be paid by the Department of Transportation. Costs paid by the Department of Transportation may be deducted from the amount transferred to the State Marine Board and to the Oregon Business Development Department under subsection (3) of this section.

(3) The Oregon Department of Administrative Services shall certify the amount of the estimate made under subsection (1) of this section, as reduced by refunds, to the Department of Transportation, to the State Marine Board, to the Oregon Business Development Department and to the State Treasurer. Thereupon, that amount shall be transferred from the Department of Transportation Driver and Motor Vehicle Suspense Account to the:

(a) Boating Safety, Law Enforcement and Facility Account created under ORS 830.140, and is continuously appropriated to the State Marine Board for the purposes for which the moneys in the Boating Safety, Law Enforcement and Facility Account are appropriated; and

(b) Marine Navigation Improvement Fund established under ORS 777.267, and is continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the purposes of paying for portions of the cost of maintenance dredging projects undertaken with equipment owned by the State of Oregon at publicly owned ports and marinas.

(4) Of the amounts transferred under subsection (3) of this section, two cents per gallon of fuel shall first be transferred to the Marine Navigation Improvement Fund and the remaining amounts shall be transferred to the Boating Safety, Law Enforcement and Facility Account. [1985 c.152 §4; 1993 c.741 §30; 1999 c.296 §1; 2005 c.22 §227; 2015 c.767 §96; 2017 c.750 §86]

319.417 Estimate of tax on fuel used in aircraft; transfer to State Aviation Account; use. (1) On or after October 3, 1989, and on or before July 15 of each year thereafter, the Oregon Department of Administrative Services, after consultation with the Department of Transportation and the Director of the Oregon Department of Aviation shall estimate, using a methodology approved by the Oregon Transportation Commission, the amount of the motor vehicle fuel tax imposed under ORS 319.010 to 319.430 during the preceding fiscal year with respect to motor vehicle fuel purchased and used in operating aircraft engines and upon which the full tax for motor vehicle fuel has been paid. The estimate shall be reduced by the amount of any refunds actually paid on motor vehicle fuel, excluding those paid on aviation gasoline or jet fuel, during the preceding fiscal year pursuant to ORS 319.330 (1).

(2) The Oregon Department of Administrative Services shall certify the amount of the estimate made under subsection (1) of this section to the Department of Transportation, the Director of the Oregon Department of Aviation and the State Treasurer.

Thereupon, the amount of the estimate shall be transferred from the Department of Transportation Driver and Motor Vehicle Suspense Account to the State Aviation Account and is continuously appropriated to the Oregon Department of Aviation to carry out the purposes of ORS chapters 835, 836 and 837. [1989 c.101 §2; 1993 c.741 §31; 1999 c.935 §28]

319.420 ORS 319.510 to 319.880 not affected. ORS 319.010 to 319.410 do not affect or repeal any of the provisions of ORS 319.510 to 319.880.

319.430 Savings clause. All rights and obligations arising under the provisions of the statutes repealed in section 38, chapter 413, Oregon Laws 1945, shall not in any way be affected by such repeal. Such statutes shall be considered in full force and effect for the purpose of carrying out all duties and obligations contracted or arising under such statutes, prior to June 16, 1945.

USE FUEL TAX

319.510 Short title. ORS 319.510 to 319.880 may be cited as the Use Fuel Tax Law. [Amended by 2007 c.71 §93]

319.520 Definitions for ORS 319.510 to 319.880. As used in ORS 319.510 to 319.880, unless the context clearly indicates a different meaning:

(1) "Cardlock card" means a fuel card:

(a) Capable of generating an electronic invoice or electronic statement that includes the information required by ORS 319.671 and the applicable fuel tax amount;

(b) Issued for a specific vehicle, a specific piece of equipment or a group of equipment;

(c) That includes the qualifying information, as designated by the Department of Transportation by rule, that is printed on the electronic invoice or electronic statement;

(d) That allows the tax status of the cardlock card to be indicated on the electronic invoice or electronic statement and includes state tax as a separate item on the invoice or statement; and

(e) That allows a cardlock card issuer to generate a statement recording, by fuel type, gallons of fuel purchased for domestic and foreign customers each month.

(2) "Combined weight" means the total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles.

(3) "Delinquent" means having failed to pay a tax or penalty within the time provided by law.

(4) "Department" means the Department of Transportation.

(5) "Domestic customer" means a customer making a purchase at a nonretail facility owned by the cardlock card issuer.

(6) "Foreign customer" means a customer making a purchase at a nonretail facility owned by a seller other than the cardlock card issuer.

(7) "Fuel" means any combustible gas, liquid or material of a kind used for the generation of power to propel a motor vehicle on the highways except motor vehicle fuel as defined in ORS 319.010.

(8) "Highway" means every way, thoroughfare and place, of whatever nature, open to the use of the public for the purpose of vehicular travel.

(9) "Light weight" means the weight of a vehicle when fully equipped for moving over the highway.

(10) "Motor vehicle" means every self-propelled vehicle operated on the highway, except an implement of husbandry used in agricultural operations and only incidentally operated or moved upon the highway.

(11) "Nonretail facility" means:

(a) An unattended facility accessible only by cardlock card and not associated with a retail facility; or

(b) An unattended portion of a retail facility separate from the retail operations and accessible only by cardlock card.

(12) "Person" means any individual, firm, copartnership, joint venture, association, corporation, trust, receiver or any group or combination acting as a unit.

(13) "Seller" means:

(a) A person that sells fuel to a user; or

(b) If the fuel is dispensed at a nonretail facility, the person that owns the user's accounts and bills the user for fuel purchased at a nonretail facility.

(14) "To sell fuel for use in a motor vehicle" means to dispense or place fuel for a price into a receptacle on a motor vehicle, from which receptacle the fuel is supplied to propel the motor vehicle.

(15) "To use fuel in a motor vehicle" means to receive into any receptacle on a motor vehicle, fuel to be consumed in propelling the motor vehicle on the highways of this state; and, if the fuel is received into the receptacle outside the taxing jurisdiction of the state, "to use fuel in a motor vehicle" means to consume in propelling the motor vehicle on the highways of this state. [Amended by 1955 c.287 §21; 1959 c.188 §1; 1977 c.429 §1; 1981 c.703 §1; 1989 c.992 §24a; 1991 c.284 §5; 1993 c.741 §32; 2003 c.99 §1; 2008 c.44 §1]

319.525 Agreements with Indian tribes. Notwithstanding any other provision of law, the Department of Transportation may enter into agreements with the governing body of any Indian tribe residing on a reservation in Oregon to provide for the administration of the tax imposed under ORS 319.510 to 319.880. [2001 c.305 §2]

319.530 Imposition of tax; rate. (1) To compensate this state partially for the use of its highways, an excise tax hereby is imposed at the rate of 34 cents per gallon on the use of fuel in a motor vehicle.

(2) Except as otherwise provided in subsections (3) and (4) of this section, 100 cubic feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

(3) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

(4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the same rate as a gallon of other liquid fuel. [Amended by 1959 c.188 §2; 1967 c.463 §2; 1981 c.698 §2; 1981 c.703 §2; 1983 c.727 §§2,6; 1985 c.209 §13; 1987 c.899 §§9,11,15; 1989 c.865 §2; 1991 c.497 §§8,9; 1995 c.311 §1; 2009 c.865 §49; 2013 c.648 §§1,3; 2017 c.750 §§42,43]

319.535 Special use fuel license fee; application; emblem. (1) In lieu of paying the per-gallon tax on the use of fuel in a motor vehicle imposed under ORS 319.530, a person may pay to the Department of Transportation annually, for each motor vehicle that consumes natural gas or propane, a special use fuel license fee computed under subsection (2) of this section based on the following schedule:

COMBINED WEIGHT (Pounds)	BASE
0 - 10,000	$60
10,001 - 26,000	$300
26,001 and above	$400

(2) The special use fuel license fee equals the applicable base amount from the schedule in subsection (1) of this section multiplied by the use fuel tax rate imposed under ORS 319.530 in effect at the time of payment, divided by 12 cents.

(3)(a) A person wishing to pay the special use fuel license fee shall apply to the department on a form prescribed by the department and shall include such information as the department requires.

(b) Upon receipt of a complete and valid application under this subsection, the department shall issue to the applicant without charge an emblem for display on the motor vehicle to which the application relates.

(c) An emblem issued under this section that is displayed in a conspicuous place on the motor vehicle for which the emblem is issued shall be accepted by a seller of fuel as proof of exemption from the per-gallon tax imposed under ORS 319.530. [2014 c.13 §2]

319.540 [Repealed by 1959 c.188 §44]

319.550 User's license required to use fuel; exceptions. (1) Except as provided in this section, a person may not use fuel in a motor vehicle in this state unless the person holds a valid user's license.

(2) A nonresident may use fuel in a motor vehicle not registered in Oregon for a period not exceeding 30 days without obtaining a user's license or the emblem issued under ORS 319.600, if, for all fuel used in a motor vehicle in this state, the nonresident pays to a seller, at the time of the sale, the tax provided in ORS 319.530.

(3) A user's license is not required for a person who uses fuel in a motor vehicle with a combined weight of 26,000 pounds or less if, for all fuel used in a motor vehicle in this state, the person pays to a seller, at the time of the sale, the tax provided in ORS 319.530.

(4)(a) A user's license is not required for a person who uses fuel as described in ORS 319.520 (7) in the vehicles specified in this subsection if the person pays to a seller, at the time of the sale, the tax provided in ORS 319.530.

(b) Paragraph (a) of this subsection applies to the following vehicles:

(A) Motor homes as defined in ORS 801.350.

(B) Recreational vehicles as defined in ORS 174.101.

(5) A user's license is not required for a person who uses fuel in a motor vehicle:

(a) Metered use by which is subject to the per-mile road usage charge imposed under ORS 319.885; and

(b) That also uses fuels subject to ORS 319.510 to 319.880.

(6) A user's license is not required for a person who uses fuel in a motor vehicle on which an emblem issued for the motor vehicle pursuant to ORS 319.535 is displayed. [Amended by 1959 c.188 §3; 1977 c.429 §2; 1985 c.265 §1; 1989 c.992 §25; 1991 c.284 §8; 2008 c.44 §3; 2013 c.781 §16; 2014 c.13 §§3,4; 2019 c.422 §31]

319.560 Application for and issuance of user's license. A user of fuel in a motor vehicle required to be licensed under ORS 319.550 shall apply to the Department of Transportation for a user's license upon forms prescribed by the department and shall set forth such information as the department may require. On receipt of the application, the department may issue to the applicant a user's license without charge authorizing the applicant to use fuel in a motor vehicle in this state. The license is valid only for the person in whose name it is issued and is valid until canceled or revoked. [Amended by 1959 c.188 §4; 1977 c.429 §3; 1999 c.769 §21]

319.570 Faithful performance bond. (1) At the time of filing the application for a user's license, the Department of Transportation may require the user of fuel in a motor vehicle to file with the department, in such form as shall be prepared by the department, a bond duly executed by the user as principal with a corporate surety authorized to transact business in this state. The bond shall be payable to the State of Oregon conditioned upon faithful performance of all the requirements of ORS 319.510 to 319.880, including the payment of all taxes, penalties and other obligations of such user arising out of ORS 319.510 to 319.880 and 319.990 (4).

(2) The total amount of the bond or bonds required of any user of fuel in a motor vehicle shall be fixed by the department and may be increased or reduced by the department at any time subject to the limitations provided in this section. The total amount of the bond or bonds required of any user of fuel in a motor vehicle shall be equivalent to twice the estimated monthly tax of the user, determined in such manner as the department considers proper. However, the total amount of the bond or bonds required of any user of fuel in a motor vehicle shall never be less than $10. Any bond given in connection with ORS 319.510 to 319.880 shall be a continuing instrument and shall cover any and all periods of time including the first and all subsequent periods for which a license may be granted in consequence of the giving of the bond. The liability of the surety on the bond for the aggregate of all claims which arise thereunder shall not exceed the amount of the penalty of the bond. No recovery on any bond or any execution of any new bond shall invalidate any bond, but the total recoveries under any one bond shall not exceed the amount of the bond. [Amended by 1959 c.188 §5; 1967 c.359 §692]

319.580 Deposit in lieu of bond. In lieu of any bond or bonds in total amount as fixed under ORS 319.570, any user may deposit with the Department of Transportation, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or negotiable bonds or other obligations of the United States, the State of Oregon, or any county of this state, of an actual market value not less than the amount so fixed by the department. The department shall turn over to the State Treasurer for safekeeping all such deposits so received.

319.590 Release of surety. Any surety on a bond furnished by a user as provided in ORS 319.570 shall be released and discharged from any and all liability to the state accruing on the bond after the expiration of 60 days from the date upon which the surety has lodged with the Department of Transportation a written request to be released and discharged, but this provision shall not operate to relieve, release or discharge the surety from any liability already accrued or which accrues before the expiration of the 60-day period. The department shall promptly, upon receiving the request, notify the user who furnished the bond, and unless the user, on or before the expiration of the 60-day period files a new bond, or makes a deposit in accordance with the requirements of ORS 319.580, the department forthwith shall cancel the user's license.

319.600 Display of emblem. Except as provided in ORS 319.550, a user of fuel in a motor vehicle shall display an emblem in a conspicuous place on each motor vehicle in connection with which fuel is used. Each such emblem shall be issued without charge by the Department of Transportation upon application by a person holding an uncanceled or unrevoked user's license and shall be displayed only upon the motor vehicle with respect to which it is issued. [Amended by 1959 c.188 §6]

319.610 [Repealed by 1959 c.188 §44]

319.611 Penalty for unlicensed use of fuel or nondisplay of authorization or emblem; waiver. (1) If any person required to be licensed under ORS 319.550 uses fuel in a motor vehicle in this state at a time when the person does not hold a valid user's license or does not display a valid authorization or user's emblem issued by the Department of Transportation, a penalty of 25 percent of the tax applicable to the fuel so used shall be imposed. The penalty so imposed shall be in addition to any other penalty imposed under the provisions of ORS 319.510 to 319.990.

(2) The department may waive any penalty provided by subsection (1) of this section that is imposed after January 1, 1998, if the department determines that there was reasonable cause for the failure to hold a valid user's license or display a valid authorization or user's emblem issued by the department and finds that there was no intent to avoid

payment. [1959 c.188 §8; 1977 c.429 §4; 1997 c.275 §2; 1999 c.769 §13]

319.620 [Amended by 1955 c.476 §1; repealed by 1959 c.188 §44]

319.621 Seller's license. (1) No person shall sell fuel for use in a motor vehicle in this state unless the person holds a valid seller's license.

(2) A person shall apply to the Department of Transportation for a seller's license upon forms prescribed, prepared and furnished by the department. No charge shall be made for the license. The license is valid only for the person in whose name it is issued and is valid until canceled or revoked.

(3) The department may require an applicant for a seller's license to file with the department a bond or deposit of not less than $100 under the same terms and conditions prescribed for users in ORS 319.570, 319.580 and 319.590. [Formerly 319.670]

319.628 Grounds for refusal to issue user's or seller's license; hearing; records inspection. (1) The Department of Transportation may refuse to issue a user's license or a seller's license to a person who applies as provided in ORS 319.560 or 319.621 if the department finds that the person:

(a) Was the holder of a license revoked under ORS 319.630;

(b) Is applying for a license on behalf of a real party in interest whose license was revoked under ORS 319.630;

(c) Was an officer, director, owner or managing employee of a nonindividual licensee whose license was revoked under ORS 319.630;

(d) Owes a debt to the state under ORS 319.510 to 319.880;

(e) Had a license issued by a jurisdiction other than Oregon to sell or use untaxed use fuel that was revoked or canceled for cause, whether the license was held by the person as an individual or as an officer, director, owner or managing employee or on behalf of a real party in interest;

(f) In any jurisdiction, pleaded guilty to or was convicted of a crime directly related to the sale, use or distribution of use fuel, whether as an individual or as an officer, director, owner or managing employee of a business engaged in the sale or distribution of use fuel;

(g) Had a civil judgment imposed for conduct involving fraud, misrepresentation, conversion or dishonesty, as an individual or as an officer, director, owner or managing employee of a business engaged in the sale or distribution of use fuel;

(h) Misrepresented or concealed a material fact in obtaining a license or in the reinstatement thereof;

(i) Violated a statute or administrative rule regarding fuel taxation or distribution;

(j) Failed to cooperate with the department's investigations by:

(A) Not furnishing requested documents;

(B) Not furnishing when requested to do so a full and complete written explanation of a matter under investigation by the department; or

(C) Not responding to a subpoena issued by the department; or

(k) Failed to comply with an order issued by the department.

(2) In addition to refusal of a license for reasons specified in subsection (1) of this section, the department may refuse to issue a user's license or seller's license for any other reason the department deems sufficient.

(3) Before refusing to issue a license under this section, the department shall grant the applicant a hearing and shall give the applicant at least 10 days' written notice of the time and place of the hearing. The hearing shall be a contested case hearing under the provisions of ORS chapter 183.

(4) For purpose of consideration of an application for a license, the department may inspect or investigate the records of this state or of any other jurisdiction to verify the information on the application and to verify the applicant's criminal and licensing history. [1999 c.769 §20]

319.630 Revocation of license; reissue of license. (1) The Department of Transportation may revoke the license of a user or seller if the user or seller fails to comply with any provision of ORS 319.510 to 319.880 or any rule or regulation adopted under ORS 319.510 to 319.880. Before revoking the license the department shall serve written notice on the person ordering the person to appear before the department at a time not less than 10 days after such service and show cause why the license should not be revoked. The notice shall be served in the manner prescribed by ORS 319.760 (3).

(2) A new license shall not be issued to a person whose license has been revoked unless it appears to the satisfaction of the department that the person will comply with the provisions of ORS 319.510 to 319.880 and the rules and regulations adopted under ORS 319.510 to 319.880. [Amended by 1959 c.188 §10]

319.640 Cancellation of license on request of user. If any person to whom a license has been issued pursuant to ORS 319.550 to 319.600 ceases using fuel within

this state for a period of six months, the person shall immediately request in writing that the Department of Transportation cancel the license. On receipt of the request the department shall cancel the license.

319.650 Notifying department upon ceasing to use fuel in connection with motor vehicle. If any person ceases using fuel within this state in connection with a motor vehicle with respect to which an emblem has been issued pursuant to ORS 319.600 but continues using fuel within this state in connection with another motor vehicle or other motor vehicles, the person shall immediately notify the Department of Transportation.

319.660 Removal of emblem. Any person whose license has been revoked or canceled pursuant to ORS 319.630 or 319.640, or who is required by ORS 319.650 to notify the Department of Transportation that such person has ceased using fuel within this state in connection with a motor vehicle, immediately shall remove from the motor vehicle on which it is displayed and shall destroy or, if the department so requests, shall return to the department each emblem issued to such person under ORS 319.600 or the emblem issued with respect to the motor vehicle in connection with which such person has ceased using fuel within this state, as the case may be.

319.665 Seller to collect tax; exceptions; deduction for purchase made with cardlock card. (1) The seller of fuel for use in a motor vehicle shall collect the tax provided by ORS 319.530 at the time the fuel is sold, unless one of the following situations applies:

(a) The Department of Transportation has issued a weight identifier under ORS 825.450 for the vehicle into which the seller delivers or places the fuel.

(b) The fuel is dispensed at a nonretail facility, in which case the seller shall collect any tax owed at the same time the seller collects the purchase price from the person to whom the fuel was dispensed at the nonretail facility. A seller is not required to collect the tax under this paragraph from a person who certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(c) A cardlock card is used for purchase of the fuel at an attended portion of a retail facility equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state is responsible for collecting and remitting the tax unless the person making the purchase certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(2) If a cardlock card is used for purchase of fuel at an attended portion of a retail facility equipped with a cardlock card reader, the seller at the retail facility may deduct fuel purchases made with a cardlock card from the seller's retail transactions if the seller provides the department with the following information:

(a) A monthly statement from a cardlock card issuer that details the cardlock card purchases at the retail facility; and

(b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the issuers' customers.

(3) The department shall supply each seller of fuel for use in a motor vehicle with a chart which sets forth the tax imposed on given quantities of fuel. [1959 c.188 §12; 1971 c.149 §1; 1977 c.429 §5; 1997 c.275 §3; 2003 c.99 §2; 2008 c.44 §2; 2013 c.781 §17; 2015 c.716 §12; 2019 c.491 §43]

319.670 [Amended by 1959 c.188 §9; renumbered 319.621]

319.671 When invoices required; contents. (1) The seller of fuel for any purpose shall make a duplicate invoice for every sale of fuel for any purpose and shall retain one copy and give the other copy to the user. The Department of Transportation may prescribe the form of the invoice. The invoice shall show:

(a) The seller's name and address;

(b) The date;

(c) The amount of the sale in gallons; and

(d) The name and address of the user.

(2) In addition to the invoice entries listed in subsection (1) of this section, the seller of fuel for use in a motor vehicle shall indicate on the invoice the amount of the tax collected, if any, and:

(a) The license plate number, if the vehicle bears a license plate issued by the department or another jurisdiction;

(b) The emblem number, if the vehicle bears a user's emblem; or

(c) The temporary pass number, if the vehicle bears no valid user's emblem or license plate issued by the department.

(3) Notwithstanding subsection (1) of this section, this section does not require any invoice to be prepared for any sale where fuel is delivered into the fuel tank of a vehicle described in this subsection unless the operator of the vehicle requests an invoice. If an invoice is prepared under this subsection, the name and address of a user is not required to be shown on the invoice for sales where the fuel is delivered into the fuel tanks of vehicles described in this subsection. This subsection applies to vehicles:

(a) That have a combined weight of 26,000 pounds or less; and

(b)(A) For which the tax under ORS 319.530 must be paid at the time of sale under ORS 319.665; or

(B) For which an emblem has been issued under ORS 319.535. [1959 c.188 §13; 1981 c.433 §1; 1989 c.992 §26; 1991 c.284 §9; 1997 c.275 §4; 2001 c.567 §2; 2014 c.13 §6; 2019 c.491 §44]

319.675 Seller's report to department; rules. Except as provided in ORS 319.692, the seller of fuel for use in a motor vehicle shall report to the Department of Transportation on or before the 20th day of each month, the amount of fuel sold, during the preceding calendar month, subject to the tax imposed under ORS 319.530 or exempt from the tax imposed under ORS 319.530 pursuant to ORS 319.535 and such other information pertaining to fuel handled as the department may require. The department may prescribe the form of the report. The seller shall deliver the report to the department in the manner provided by the department by rule. [1959 c.188 §14; 1963 c.226 §6; 2011 c.101 §3; 2014 c.13 §5]

319.680 [Repealed by 1959 c.188 §44]

319.681 Payment of tax by seller. The seller of fuel for use in a motor vehicle shall remit to the Department of Transportation with each report required by ORS 319.675 all the tax due on the amount of fuel sold less four percent, which the seller shall retain. [1959 c.188 §15; 1977 c.429 §6]

319.690 Monthly report of user; remittance; credit against taxes; annual reports of certain users; rules. (1) Except as provided in subsection (2) of this section and ORS 319.692, each user of fuel in a motor vehicle required to be licensed under ORS 319.550 shall, on or before the 20th day of each month, file with the Department of Transportation a report showing the amount of fuel used during the immediately preceding calendar month by the user and such other information as the department may require for the purposes of ORS 319.510 to 319.880. The department shall prescribe the form of the report. The user shall file the report with the department in the manner provided by the department by rule. Each report shall be accompanied by a remittance payable to the department for the amount of all the tax shown by the report to be due and payable. Any tax paid to a seller is a credit against the amount of tax otherwise due and payable to the state under ORS 319.510 to 319.880 or 818.225, 825.474, 825.476 and 825.480. Also, when filing a monthly tax report, a user may, in lieu of claiming a refund, take a deduction or credit for the tax on any fuel which would otherwise be subject to refund under ORS 319.831 (1).

(2) Each user of fuel in a motor vehicle with a light weight of less than 8,000 pounds required to be licensed under ORS 319.550 may file an annual report of all fuel used upon Oregon highways. The report for each calendar year shall be filed on or before March 1 of the year following and shall be accompanied by a remittance payable to the department of all the tax shown to be due and payable on the amount of fuel used. [Amended by 1959 c.188 §16; 1963 c.226 §7; 1971 c.149 §2; 1977 c.429 §7; 2011 c.101 §4; 2015 c.77 §2]

319.692 Quarterly reports if average monthly tax under $300; when annual reports authorized. (1) Whenever in the judgment of the Department of Transportation the average monthly tax to be paid by a use fuel seller or user will be less than $300, the department may authorize the seller or user to file quarterly tax reports in lieu of the monthly tax reports required by ORS 319.675 and 319.690. The quarterly reports so authorized, and accompanying remittances as shown thereon to be due and payable, shall be filed on or before the due dates as follows: First quarter, April 20; second quarter, July 20; third quarter, October 20; fourth quarter, January 20. Any provisions of ORS 319.675 and 319.690 otherwise applicable to the filing of monthly reports and remittances shall be applicable to the quarterly filings.

(2) Whenever in the judgment of the department the average annual tax to be paid by a use fuel seller or user will be less than $100, the department may authorize the seller or user to file annual tax reports in lieu of the monthly tax reports required by ORS 319.675 and 319.690. The annual reports authorized by this subsection, and accompanying remittances as shown on the reports to be due and payable, shall be filed on or before January 20 following the year for which the reports are filed. Any provisions of ORS 319.675 and 319.690 otherwise applicable to the filing of monthly reports and remittances shall be applicable to the annual filings. [1963 c.226 §5; 1985 c.265 §2; 1989 c.992 §27]

319.694 Penalty for delinquency in remitting tax; waiver; interest rates. (1) Except as provided in subsection (2) of this section, if any user or seller is delinquent in remitting the tax provided by ORS 319.530 on the date specified in ORS 319.675, 319.681, 319.690 or 319.692, a penalty of 10 percent of the amount of the tax due shall be added to the amount due and the total shall immediately be due and payable.

(2) If the Department of Transportation determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalty provided by subsection (1) of this section may be waived.

(3)(a) If the excise tax imposed by ORS 319.530 is not paid as required by ORS 319.675, 319.681, 319.690 or 319.692, interest shall be charged at the rate of 0.0329 percent per day until the tax and interest have been paid in full.

(b) If the excise tax imposed by ORS 319.530 is overpaid, the department may credit interest to the account of the taxpayer in the amount of 0.0329 percent per day up to a maximum amount that equals any interest assessed against the taxpayer under paragraph (a) of this subsection in any given audit period.

(4) No seller or user who incurs a tax liability as provided in ORS 319.510 to 319.880 shall knowingly and willfully fail to report and pay the tax liability to the department as required by ORS 319.510 to 319.880. [1959 c.188 §18; 1963 c.226 §8; 1971 c.149 §3; 1987 c.158 §51; 1987 c.610 §18; 1999 c.769 §14]

319.697 Records required of sellers and users; alternative records for certain users. (1) Every user of fuel in a motor vehicle required to be licensed under ORS 319.550 shall keep a record of fuel used and be prepared to prove that all the tax due and payable on fuel used has been paid. An invoice, described in ORS 319.671, properly filled out, is proof that any tax due which is shown on the invoice as paid was paid for the fuel covered by the invoice. The user's record of fuel used for any purpose, other than fuel obtained from a seller who collected the tax, shall indicate the date the fuel was obtained, the name and address of the seller from whom the fuel was obtained, and the amount of fuel obtained, in gallons.

(2) In lieu of maintaining an actual record of fuel used, a user required to be licensed under ORS 319.550 who operates a motor vehicle with a light weight of less than 8,000 pounds may maintain an accurate record of miles operated upon Oregon highways. The gallons of taxable fuel used shall be computed by applying a reasonable miles per gallon figure to the Oregon miles operated. The Department of Transportation shall determine whether the miles per gallon figure is reasonable and its decision shall be final.

(3) Every seller of fuel for any purpose shall keep a record of fuel sold for any purpose and shall be prepared to prove that all the tax provided by ORS 319.530 has been remitted to the department. The department may specify the form of the seller's record.

(4) Every seller, and every user of fuel in a motor vehicle required to be licensed under ORS 319.550 shall preserve in this state for a period of three years all records of fuel used or fuel sold, together with invoices and any other relevant records or papers which may be specified by the department.

(5) The department or its authorized agent may examine every user's or seller's records and papers required to be preserved by subsection (4) of this section at any time during normal business hours. [1959 c.188 §§19,20,21,22; 1971 c.149 §4; 1977 c.429 §8]

319.700 Tax as lien against motor vehicle. The tax and the penalty imposed upon a user of fuel in a motor vehicle by ORS 319.510 to 319.880 shall constitute a lien upon, and shall have the effect of an execution duly levied against, any motor vehicle in connection with which the taxable use is made, attaching at the time of such use. The lien shall not be removed until the tax has been paid or the motor vehicle subject to the lien has been sold in payment of such tax. The lien is paramount to all private liens or encumbrances of whatever character upon the motor vehicle and to the rights of any conditional vendor or any other holder of the legal title in or to the motor vehicle. [Amended by 1959 c.188 §23]

319.710 [Repealed by 1959 c.188 §44]

319.720 Delinquency in payment; notice to debtors of user or seller; report to department. If a user or seller is delinquent in the payment of any obligation imposed under ORS 319.510 to 319.880, the Department of Transportation may give notice of the amount of such delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to the user or seller, or owing any debts to such user or seller, at the time of the receipt by them of the notice. Thereafter any person so notified shall neither transfer nor make other disposition of such credits, personal property or debts until the department has consented to a transfer or other disposition or until 30 days have elapsed from and after the receipt of the notice. All persons so notified shall, within five days after the receipt of the notice, advise the department of all such credits, personal property or debts in their possession, under their control or owing by them, as the case may be. [Amended by 1959 c.188 §24]

319.730 Collection of delinquent payment by seizure and sale of motor vehicle. (1) Whenever any user is delinquent in the payment of any obligation imposed under ORS 319.510 to 319.880, the Department of Transportation may proceed to collect the amount due from the user in the manner prescribed in this section.

(2) The department shall seize any motor vehicle subject to the lien provided for by ORS 319.700 and thereafter sell it at public auction to pay such obligation and any and

all costs that may have been incurred on account of the seizure and sale.

(3) Notice of the intended sale and the time and place thereof shall be given to the delinquent user and to all persons appearing of record to have an interest in the motor vehicle. The notice shall be given in writing at least 10 days before the date set for the sale by enclosing it in an envelope addressed to the user at the address as it appears in the records of the department and, in the case of any person appearing of record to have an interest in the motor vehicle, addressed to the person at the last-known residence or place of business, and depositing the envelope in the United States mail, postage prepaid. In addition, the notice shall be published at least three times, the first of which shall be not less than 10 days before the date set for the sale, in a newspaper of general circulation published in the county in which the motor vehicle seized is to be sold. If there is no newspaper of general circulation in the county, the notice shall be posted in three public places in the county for such period of 10 days.

(4) The notice shall contain a description of the motor vehicle to be sold, together with a statement of the amount due under ORS 319.510 to 319.880, the name of the user and the further statement that unless such amount is paid before the time fixed in the notice the motor vehicle will be sold in accordance with law and such notice.

(5) The department shall then proceed to sell the motor vehicle in accordance with the law and the notice, and shall deliver to the purchaser a bill of sale which shall vest title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state under ORS 319.510 to 319.880 from the delinquent user, the excess shall be returned to the user and the receipt obtained therefor. If any person having an interest in or lien upon the motor vehicle has filed with the department prior to the sale notice of such interest or lien, the department shall withhold payment of any such excess to the user pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the user shall not be available, the department shall deposit the excess with the State Treasurer as trustee for the user or for the heirs, successors or assigns of the user. [Amended by 1999 c.59 §79]

319.740 Action by Attorney General to collect delinquency; certificate of department as evidence. (1) Whenever any user or seller is delinquent in the payment of any obligation under ORS 319.510 to 319.880, the Department of Transportation may transmit notice of the delinquency to the Attorney General who shall at once proceed to collect by appropriate legal action the tax and penalty due.

(2) In any suit brought to enforce the rights of the state under ORS 319.510 to 319.880, a certificate by the department showing the delinquency is prima facie evidence of the amount of the obligation, of the delinquency thereof and of compliance by the department with all provisions of ORS 319.510 to 319.880 relating to the obligation. [Amended by 1959 c.188 §25]

319.742 Collection of delinquent obligation generally; warrant; judgment lien. (1) If a person fails to pay in full any obligation due under ORS 319.510 to 319.880, the Department of Transportation may issue a warrant for the amount of the obligation and the cost of executing the warrant. A copy of the warrant shall be mailed or delivered to the debtor by the department at the debtor's last-known address.

(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the debtor found within that county, and to levy upon any currency of the debtor found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect obligations under this section, and in the execution of the warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. [1999 c.769 §9; 2003 c.576 §201; 2011 c.661 §4]

319.744 Use of collection agency. (1) The Department of Transportation may engage the services of a collection agency to collect any obligation due to the state under ORS 319.510 to 319.880. The department may engage the services by entering into agreements to pay reasonable charges on a contingent fee or other basis.

(2) The department may assign to the collection agency, for collection purposes only, any of the obligations due the state under ORS 319.510 to 319.880.

(3) The collection agency may bring such actions or take such proceedings, including attachment and garnishment proceedings, as may be necessary. [1999 c.769 §10]

319.746 Uncollectible obligation. (1) Any obligation due the state assigned to a collection agency pursuant to ORS 319.744 that remains uncollected for two years after the date of the assignment meets the criteria for uncollectibility formulated pursuant to ORS 293.240.

(2) ORS 293.245 applies to any obligation due the state and described in subsection (1) of this section. [1999 c.769 §11; 2011 c.223 §3]

319.750 [Repealed by 1959 c.188 §44]

319.760 Assessment of deficiency; presumption that fuel subject to tax. (1) If the Department of Transportation is not satisfied that a report filed or amount of tax or penalty paid to the state by any user or seller is correct, the department may assess the tax and penalty due based upon any information available to the department.

(2) If a seller fails to account satisfactorily for any fuel sold or disposed of, it shall be presumed that the fuel not accounted for was sold to users for use in motor vehicles and the department shall assess the tax and penalty due against the seller.

(3) The department shall give to the user or seller written notice of the assessment. The notice may be served personally or by mail. If made by mail, service shall be made by depositing the notice in the United States mail, postage prepaid, addressed to the user or seller at the address as it appears in the records of the department. [Amended by 1959 c.188 §26]

319.770 [Repealed by 1959 c.188 §44]

319.780 Assessing tax and penalty upon failure to make report. (1) If any user or seller fails to make a report required by ORS 319.510 to 319.880, the Department of Transportation shall make an estimate, based upon any information available to the department, for the month or months with respect to which the user or seller failed to make a report, and assess the tax and penalty due from the user or seller under ORS 319.510 to 319.880.

(2) The department shall give to the user or seller written notice of the assessment in the manner prescribed by ORS 319.760 (3). [Amended by 1959 c.188 §27]

319.790 Petition for reassessment. (1) Any user or seller against whom an assessment is made under ORS 319.760 and 319.780 may petition for a reassessment within 30 days after service of notice of the assessment. If a petition is not filed within the 30-day period, the amount of the assessment becomes conclusive.

(2) If a petition for reassessment is filed within the 30-day period the Department of Transportation shall reconsider the assessment and, if requested in the petition, shall grant the user or seller an oral hearing and give the user or seller 10 days' notice of the time and place thereof. The department may continue the hearing from time to time. The department shall serve on the petitioner notice of its finding upon reassessment. If the finding is that a tax or penalty is delinquent, the petitioner shall pay to the department, within 30 days after notice is served, all the tax or penalty found to be delinquent.

(3) Notice required by this section shall be served in the manner prescribed by ORS 319.760 (3). [Amended by 1959 c.188 §28]

319.800 [Repealed by 1959 c.188 §44]

319.801 Appeal to circuit court. Any person aggrieved by a finding, order or determination by the Department of Transportation under ORS 319.630 or 319.790 may appeal therefrom to the circuit court of the county in which the person resides. Such appeal shall be taken within 60 days from the date of the entry or making of such order, finding or determination and in the manner provided by law for appeals in actions at law. [1959 c.188 §30]

319.810 Time limitation on service of notice of additional tax. Except in the case of an alleged fraudulent report, or neglect or refusal to make a report, no notice of assessment shall be served on the user or seller after three years have expired since the alleged erroneous report was filed or a report should have been filed. [Amended by 1959 c.188 §31]

319.820 Refund of tax erroneously or illegally collected. (1) If the Department of Transportation determines any amount of tax or penalty has been paid more than once or has been erroneously or illegally collected, the department shall credit such amount against any amounts then due from the user or seller under ORS 319.510 to 319.880 or 319.990 (4) and shall refund any balance to the user or seller, the successor, administrator or executor of the user or seller.

(2) A user or seller may claim a credit or refund for any amount of tax or penalty which the user or seller has paid more than once or which the user or seller has paid or which has been collected erroneously or ille-

gally. No such claim for a credit or refund shall be allowed unless the claim is filed with the department within three years from the date of the payment or collection or, with respect to an assessment made under ORS 319.760 and 319.780, within six months after the assessment becomes conclusive, whichever period expires the later. Every such claim must be in writing and must state the specific grounds upon which it is founded. Failure to file such claim within the time prescribed in this section shall constitute waiver of any and all demands against this state on account of overpayments under ORS 319.510 to 319.880. Within 30 days of allowing or disallowing any such claim in whole or in part, the department shall serve notice of such action on the claimant. The service shall be made in the manner prescribed by ORS 319.760 (3). [Amended by 1959 c.188 §32]

319.830 [Repealed by 1959 c.188 §44]

319.831 Refund of tax on fuel used in operation of vehicle over certain roads or private property. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which is applicable to use of the fuel to propel a motor vehicle:

(a) In another state, if the user pays to the other state an additional tax on the same fuel;

(b) Upon any road, thoroughfare or property in private ownership;

(c) Upon any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

(A) An agency of the United States;

(B) The State Board of Forestry;

(C) The State Forester; or

(D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

(d) By an agency of the United States or of this state or of any county, city or port of this state on any road, thoroughfare or property, other than a state highway, county road or city street;

(e) By any incorporated city or town of this state;

(f) By any county of this state or by any road assessment district formed under ORS 371.405 to 371.535;

(g) Upon any county road for the removal of forest products as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, if:

(A) Such use upon the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such user to use such road and requiring such user to pay for or to perform the construction or maintenance of the county road;

(B) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of such county road; and

(C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this paragraph are filed with the Department of Transportation;

(h) By a school district or education service district of this state or the contractors of a school district or education service district, for those vehicles being used to transport students;

(i) By a rural fire protection district organized under the provisions of ORS chapter 478;

(j) By any district, as defined in ORS chapter 198, that is not otherwise specifically provided for in this section; or

(k) By any state agency, as defined in ORS 240.855.

(2) An application for a refund under subsection (1) of this section shall be filed with the department within 15 months after the date the use fuel tax, for which a refund is claimed, is paid.

(3) The application for a refund provided by subsection (1) of this section shall include a signed statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel tax directly to the department, the applicant shall indicate the source of the fuel and the date it was obtained.

(4) The department may require any person who applies for a refund provided by

subsection (1) of this section to furnish a statement, under oath, giving the person's occupation, description of the machines or equipment in which the fuel was used, the place where used and such other information as the department may require. [1959 c.188 §§34,35,36(1); 1961 c.542 §1; 1963 c.257 §4; 1965 c.425 §3; 1967 c.367 §3; 1971 c.118 §2; 1979 c.344 §7; 1999 c.696 §1; 2001 c.927 §1; 2013 c.781 §18; 2019 c.428 §6]

319.835 Investigation of refund applications. The Department of Transportation may investigate refund applications and gather and compile such information in regard to the applications as it considers necessary to safeguard the state and prevent fraudulent practices in connection with tax refunds and tax evasions. The department may, in order to establish the validity of any application, examine the books and records of the applicant for such purposes. Failure of the applicant to accede to the demand for such examination constitutes a waiver of all rights to a refund on account of the transaction questioned. [1959 c.188 §36(2)]

319.840 Enforcement; rules and regulations. The Department of Transportation hereby is charged with the enforcement of the provisions of ORS 319.510 to 319.880 and 319.990 (4), and hereby is authorized to prescribe, adopt and enforce rules and regulations relating to the administration and enforcement thereof.

319.850 Presumption of use; rules. For the purposes of the proper administration of ORS 319.510 to 319.880 and 319.990 (4) and to prevent evasion of the tax imposed by ORS 319.530, it shall be presumed, until the contrary is established under such reasonable rules as the Department of Transportation may adopt, that all fuel received into or delivered into any receptacle on a motor vehicle from which receptacle fuel is supplied to propel such motor vehicle is consumed in propelling such motor vehicle on the highways of this state. [Amended by 1959 c.188 §37]

319.860 Producers, distributors and others to keep records; examining books and records. (1) Every person producing, manufacturing, importing, distributing, storing, transporting or otherwise handling fuel shall maintain and keep in this state for a period of not less than three years such records, receipts, invoices and other pertinent papers in such form as the Department of Transportation may require.

(2) The department may examine during normal business hours the books, papers, records and equipment of any person producing, manufacturing, importing, distributing, storing, transporting or otherwise handling fuel and may investigate the character of the disposition which any such person makes of fuel in order to determine whether all taxes due under ORS 319.510 to 319.880 are being properly reported and paid. [Amended by 1959 c.188 §38]

319.870 Results of investigations to be private. It is unlawful for the Department of Transportation, or any person having an administrative duty under ORS 319.510 to 319.880, to divulge the business affairs, operations, or information obtained by an investigation of records and equipment of any user or other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any report, or to permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. However, the department may authorize examination of such reports by, and the giving of information therein contained to other state officers, or tax officers of another state or the federal government if a reciprocal arrangement exists.

319.875 Prohibitions. (1) No person shall intentionally make a false statement in any report, petition or application required or permitted by ORS 319.510 to 319.880.

(2) No person shall intentionally collect, or attempt to collect or receive a refund of a tax or penalty paid to the Department of Transportation under ORS 319.510 to 319.880 to which the person is not entitled.

(3) No person shall intentionally aid or assist another person to violate any provision of ORS 319.510 to 319.880. [1959 c.188 §§40,41,42]

319.880 Disposition of moneys. All money received by the Department of Transportation pursuant to ORS 319.510 to 319.880 shall be turned over promptly to the State Treasurer and shall be disposed of as provided in ORS 802.110. [Amended by 1955 c.287 §22; 1961 c.146 §3; 1969 c.70 §2; 1983 c.338 §910]

PER-MILE ROAD USAGE CHARGE

319.883 Definitions for ORS 319.883 to 319.946. As used in ORS 319.883 to 319.946:

(1) "Fuel taxes" means motor vehicle fuel taxes imposed under ORS 319.010 to 319.430 and taxes imposed on the use of fuel in a motor vehicle under ORS 319.510 to 319.880.

(2) "Highway" has the meaning given that term in ORS 801.305.

(3) "Lessee" means a person that leases a motor vehicle that is required to be registered in Oregon.

(4)(a) "Motor vehicle" has the meaning given that term in ORS 801.360.

(b) "Motor vehicle" does not mean a motor vehicle designed to travel with fewer than four wheels in contact with the ground.

(5) "Registered owner" means a person, other than a vehicle dealer that holds a certificate issued under ORS 822.020, that is required to register a motor vehicle in Oregon.

(6) "Subject vehicle" means a motor vehicle that is the subject of an application approved pursuant to ORS 319.890.

(7) "Vehicle dealer" means a person engaged in business in this state that is required to obtain a vehicle dealer certificate under ORS 822.005. [2013 c.781 §2; 2019 c.428 §12]

Note: 319.883 to 319.946 were added to and made a part of ORS chapter 319 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

319.885 Per-mile road usage charge. (1)(a) Except as provided in paragraph (b) of this subsection, the registered owner of a subject vehicle shall pay a per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(b) During the term of a lease, the lessee of a subject vehicle shall pay the per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(2) The rate of the per-mile road usage charge is five percent of the rate of the per-gallon license tax provided in ORS 319.020 (1)(b) in effect at the time the charge becomes due. [2013 c.781 §3; 2017 c.750 §§118,118a; 2019 c.428 §§3,4]

Note: See note under 319.883.

319.890 Application for road usage charge program; consultation with vehicle dealers to encourage participation. (1) A person wishing to pay the per-mile road usage charge imposed under ORS 319.885 must apply to the Department of Transportation on a form prescribed by the department.

(2) The department shall approve a valid and complete application submitted under this section if:

(a) The applicant is the registered owner or lessee of a motor vehicle;

(b) The motor vehicle is equipped with a method selected pursuant to ORS 319.900 for collecting and reporting the metered use by the motor vehicle of the highways in Oregon;

(c) The motor vehicle is classified as a passenger vehicle by the department; and

(d) The vehicle has a rating of at least 20 miles per gallon, such rating to be established by the department.

(3) An electric vehicle or a vehicle with a rating of 40 miles per gallon or greater for which an application is approved under this section is not subject to the additional amount of registration fees imposed under ORS 803.422.

(4) Approval of an application under this section subjects the applicant to the requirements of ORS 319.920 until the person ends the person's voluntary participation in the road usage charge program in the manner required under subsection (5) of this section.

(5) A person may end the person's voluntary participation in the road usage charge program at any time by notifying the department, returning any emblem issued under ORS 319.945 to the department and paying any outstanding amount of road usage charge for metered use by the person's subject vehicle.

(6)(a) This subsection applies to a person whose subject vehicle is described in subsection (3) of this section.

(b) If the person ends the person's voluntary participation in the per-mile road usage charge program with respect to the subject vehicle, in addition to any amount due under subsection (5) of this section, the additional amount of registration fees that would otherwise have been due for the current registration period under ORS 803.422 becomes due and the department may deny registration for the subject vehicle until the additional amount of registration fees is paid.

(7) The Department of Transportation shall consult with vehicle dealers that sell passenger vehicles to determine the most effective methods, at the point of sale, to encourage participation in the per-mile road usage charge program. [2013 c.781 §4; 2015 c.716 §11; 2017 c.750 §118c; 2019 c.428 §1; subsection (7) of 2019 Edition enacted as 2019 c.428 §10]

Note: Section 2, chapter 428, Oregon Laws 2019, provides:

Sec. 2. (1)(a) The amendments to ORS 319.890 (2) and (3) by section 1 of this 2019 Act apply to applications for participation in the per-mile road usage charge program submitted on or after the operative date of this 2019 Act [January 1, 2020].

(b) Notwithstanding the amendments to ORS 319.890 (2)(d) by section 1 of this 2019 Act and the date specified in subsection (1) of this section, a subject vehicle with a rating of less than 20 miles per gallon that is approved for the per-mile road usage charge program before the date specified in subsection (1) of this section may remain in the program on and after the date specified in subsection (1) of this section.

(2) The amendments to ORS 319.890 (6) by section 1 of this 2019 Act apply to a person that ends the person's voluntary participation in the per-mile road usage charge program on or after the operative date of this 2019 Act. [2019 c.428 §2]

Note: See note under 319.883.

319.895 Deposit and distribution of road usage charge moneys. Moneys collected from the road usage charges imposed under ORS 319.885 shall be deposited in the State Highway Fund and allocated for distribution as follows:

(1) 50 percent to the Department of Transportation.

(2) 30 percent to counties for distribution as provided in ORS 366.762.

(3) 20 percent to cities for distribution as provided in ORS 366.800. [2013 c.781 §5]

Note: See note under 319.883.

319.900 Department of Transportation to establish methods for recording and reporting mileage. (1) As used in this section, "open system" means an integrated system based on common standards and an operating system that has been made public so that components performing the same function can be readily substituted or provided by multiple providers.

(2)(a) The Department of Transportation, in consultation with the Road User Fee Task Force, shall establish the methods for recording and reporting the number of miles that subject vehicles travel on highways.

(b) When taking action under this subsection, the department shall consider:

(A) The accuracy of the data collected;

(B) Privacy options for persons liable for the per-mile road usage charge;

(C) The security of the technology;

(D) The resistance of the technology to tampering;

(E) The ability to audit compliance; and

(F) Other relevant factors that the department deems important.

(c) The department shall establish at least one method of collecting and reporting the number of miles traveled by a subject vehicle that does not use vehicle location technology.

(d)(A) The department shall adopt standards for open system technology used in methods established under this subsection.

(B) In adopting standards pursuant to this paragraph, the department shall collaborate with agencies of the executive department as defined in ORS 174.112 to integrate information systems currently in use or planned for future use.

(3) The department shall provide the persons liable for the per-mile road usage charge the opportunity to select a method from among multiple options for collecting and reporting the metered use by a subject vehicle of the highways in Oregon. [2013 c.781 §6]

Note: See note under 319.883.

319.905 Department of Transportation to adopt rules for collecting road usage charge. The Department of Transportation shall provide by rule for the collection of the road usage charges imposed under ORS 319.885, including penalties and interest imposed on delinquent charges. [2013 c.781 §7]

Note: See note under 319.883.

319.910 Department of Transportation to establish reporting periods for road usage charge. (1) The Department of Transportation shall establish by rule reporting periods for the road usage charges imposed under ORS 319.885.

(2) Reporting periods established under this section may vary according to the facts and circumstances applicable to classes of registered owners, lessees and subject vehicles.

(3) In establishing reporting periods, the department shall consider:

(a) The effort required by registered owners or lessees to report metered use and to pay the per-mile road usage charge;

(b) The amount of the per-mile road usage charge owed;

(c) The cost to the registered owner or lessee of reporting metered use and of paying the per-mile road usage charge;

(d) The administrative cost to the department; and

(e) Other relevant factors that the department deems important. [2013 c.781 §8]

Note: See note under 319.883.

319.915 Confidentiality of personally identifiable information used for reporting and collecting road usage charge; exceptions; records to be destroyed; exceptions; Department of Transportation to provide for penalties. (1) As used in this section:

(a) "Certified service provider" means an entity that has entered into an agreement with the Department of Transportation under ORS 367.806 for reporting metered use by a subject vehicle or for administrative services related to the collection of per-mile road usage charges and authorized employees of the entity.

(b) "Personally identifiable information" means any information that identifies or describes a person, including, but not limited to, the person's travel pattern data, per-mile road usage charge account number, address, telephone number, electronic mail address, driver license or identification card number, registration plate number, photograph, recorded images, bank account information and credit card number.

(c) "VIN summary report" means a monthly report by the department or a certified service provider that includes a summary of all vehicle identification numbers of subject vehicles and associated total metered use during the month. The report may not include location information.

(2) Except as provided in subsections (3) and (4) of this section, personally identifiable

information used for reporting metered use or for administrative services related to the collection of the per-mile road usage charge imposed under ORS 319.885 is confidential within the meaning of ORS 192.355 (9)(a) and is a public record exempt from disclosure under ORS 192.311 to 192.478.

(3)(a) The department, a certified service provider or a contractor for a certified service provider may not disclose personally identifiable information used or developed for reporting metered use by a subject vehicle or for administrative services related to the collection of per-mile road usage charges to any person except:

(A) The registered owner or lessee;

(B) A financial institution, for the purpose of collecting per-mile road usage charges owed;

(C) Employees of the department;

(D) A certified service provider;

(E) A contractor for a certified service provider, but only to the extent the contractor provides services directly related to the certified service provider's agreement with the department;

(F) An entity expressly approved to receive the information by the registered owner or lessee of the subject vehicle; or

(G) A police officer pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency in an authorized criminal investigation involving a person to whom the requested information pertains.

(b) Disclosure under paragraph (a) of this subsection is limited to personally identifiable information necessary to the respective recipient's function under ORS 319.883 to 319.946.

(4)(a) Not later than 30 days after completion of payment processing, dispute resolution for a single reporting period or a noncompliance investigation, whichever is latest, the department and certified service providers shall destroy records of the location and daily metered use of subject vehicles.

(b) Notwithstanding paragraph (a) of this subsection:

(A) For purposes of traffic management and research, the department and certified service providers may retain, aggregate and use information in the records after removing personally identifiable information.

(B) A certified service provider may retain the records if the registered owner or lessee consents to the retention. Consent under this subparagraph does not entitle the department to obtain or use the records or the information contained in the records.

(C) Monthly summaries of metered use by subject vehicles may be retained in VIN summary reports by the department and certified service providers.

(5) The department, in any agreement with a certified service provider, shall provide for penalties if the certified service provider violates this section. [2013 c.781 §9]

Note: See note under 319.883.

319.920 Reporting requirement. (1) On a date determined by the Department of Transportation under ORS 319.910, the registered owner or lessee of a subject vehicle shall report the metered use by the subject vehicle and pay to the department the per-mile road usage charge due under ORS 319.885 for the reporting period.

(2) Unless a registered owner or lessee presents evidence in a manner approved by the department by rule that the subject vehicle has been driven outside this state, the department shall assume that all metered use reported represents miles driven by the subject vehicle on the highways in Oregon. [2013 c.781 §10; 2015 c.716 §13]

Note: See note under 319.883.

319.923 Reconciliation of fuel taxes and per-mile road usage charge. (1) If, at the end of a reporting period established pursuant to ORS 319.910, the amount that a person has paid, directly or indirectly, in fuel taxes for the reporting period with respect to a subject vehicle is less than the amount of the per-mile road usage charge owing under ORS 319.885 for the reporting period with respect to the subject vehicle, the Department of Transportation shall:

(a) Debit the person's per-mile road usage charge account for the reporting period solely for the amount of the difference; or

(b) If the person makes a direct payment in the amount of the difference to the department, not debit the person's account for the per-mile road usage charge for the reporting period.

(2) If, at the end of a reporting period established pursuant to ORS 319.910, the amount that a person has paid, directly or indirectly, in fuel taxes for the reporting period with respect to a subject vehicle exceeds the amount of the per-mile road usage charge owing under ORS 319.885 for the reporting period with respect to the subject vehicle, the department shall not:

(a) Debit the person's account for the amount of the per-mile road usage charge owing for the reporting period; or

(b) Issue a refund to the person or credit the person's account for the amount of the excess. [2019 c.428 §9]

Note: See note under 319.883.

319.925 Refunds for overpayment; grant of refund as credit. (1) The Department of Transportation shall provide a refund to a registered owner or lessee that has overpaid the per-mile road usage charge imposed under ORS 319.885.

(2) The department may provide by rule that the refund under this section be granted as a credit against future per-mile road usage charges incurred by the registered owner or lessee. [2013 c.781 §11]

Note: See note under 319.883.

319.930 Refund applications. (1) A registered owner or lessee that has paid the per-mile road usage charge imposed under ORS 319.885 may apply to the Department of Transportation for a refund for metered use of a road, thoroughfare or property in private ownership.

(2) An application for a refund under this section must be submitted to the department within 15 months after the date on which the per-mile road usage charge for which a refund is claimed is paid.

(3) The application required under this section shall be in a form prescribed by the department by rule and must include a signed statement by the applicant indicating the number of miles for which the refund is claimed.

(4) The department may require the applicant for a refund under this section to furnish any information the department considers necessary for processing the application. [2013 c.781 §12]

Note: See note under 319.883.

319.935 Investigation of refund applications. (1) The Department of Transportation may investigate a refund application submitted under ORS 319.930 and gather and compile such information related to the application as the department considers necessary to safeguard the state and prevent fraudulent practices in connection with tax refunds and tax evasion.

(2) The department may, in order to establish the validity of an application, examine the relevant records of the applicant for such purposes.

(3) If an applicant does not permit the department to examine the relevant records, the applicant waives all rights to the refund to which the application relates. [2013 c.781 §13]

Note: See note under 319.883.

319.940 Violations. (1) A person may not intentionally make a false statement in a report or refund application or when supplying other information required under ORS 319.920 or 319.930.

(2) A person may not intentionally apply for, receive or attempt to receive a refund under ORS 319.925 or 319.930 to which the person is not entitled.

(3) A person may not intentionally aid or assist another person to violate any provision of ORS 319.920, 319.925 or 319.930.

(4) A person who violates any provision of this section commits a Class A violation. [2013 c.781 §14]

Note: See note under 319.883.

319.945 Authority to issue emblems; display. (1) The Department of Transportation may issue an emblem to the registered owner of a subject vehicle to show that the use of fuel in the subject vehicle is exempt from taxation under ORS 319.510 to 319.880.

(2) An emblem issued under this section shall be displayed:

(a) In a conspicuous place on the subject vehicle; and

(b) Only upon the subject vehicle with respect to which it is issued. [2013 c.781 §15; 2015 c.716 §10]

Note: See note under 319.883.

319.946 General rulemaking authority for per-mile road usage charge program. In accordance with applicable provisions of ORS chapter 183, the Department of Transportation may adopt any rules the department considers necessary or convenient for the administration of ORS 319.883 to 319.946. [2019 c.428 §11]

Note: See note under 319.883.

319.947 Multijurisdictional agreements. The Department of Transportation may enter into agreements with other state departments of transportation, the federal government and Canadian provinces for the purposes of:

(1) Conducting joint research relating to road usage charges and development programs on a multistate basis;

(2) Furthering the development and operation of single state or multistate road usage charge pilot programs;

(3) Sharing costs incurred in conducting the research described in subsection (1) of this section; and

(4) Developing a program for stakeholder outreach and communications with respect to road usage charges. [2013 c.781 §29]

Note: 319.947 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 319 or any series therein by legislative

action. See Preface to Oregon Revised Statutes for further explanation.

LOCAL FUEL TAXES

319.950 Election required for local tax on fuel for motor vehicles. A city, county or other local government may enact or amend any charter provision, ordinance, resolution or other provision taxing fuel for motor vehicles after submitting the proposed tax to the electors of the local government for their approval. [2009 c.865 §27]

Note: 319.950 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 319 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PENALTIES

319.990 Penalties. (1) Any person who violates any of the provisions of ORS 319.010 to 319.430, or any person who makes any false statement in any statement required by ORS 319.010 to 319.430 for the refund of any money or tax as provided in ORS 319.010 to 319.430, or who collects or causes to be repaid to the person or any person any tax, without being entitled to it under the provisions of ORS 319.010 to 319.430, commits a Class B misdemeanor.

(2) Violation of ORS 319.180 (6) or 319.694 (4) is theft of public money and, upon conviction, is punishable as provided in ORS 164.043 to 164.057.

(3) Violation of any provision of ORS 319.240 (4) and (5) is a Class B misdemeanor.

(4) Violation of any provision of ORS 319.510 to 319.880 is a Class A misdemeanor. [Amended by 1959 c.188 §43; 1961 c.261 §3; 1971 c.743 §355; 1987 c.610 §19; 1987 c.907 §15; 1999 c.769 §15; 2011 c.597 §181]

Chapter 445

2019 EDITION

Indigent Persons Injured in Motor Vehicle Accidents

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445.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Ambulance operator" means any person operating an ambulance for hire.

(2) "Authority" means the Oregon Health Authority.

(3) "Care" means:

(a) Treatment in and by a hospital.

(b) Professional services of a doctor.

(c) Professional services of a nurse.

(d) Medicines, substances, articles, appliances or physical therapy supplied on the prescription or order of the doctor in charge of the case.

(e) Transportation and services by an ambulance operator.

(f) Supplying prosthetic appliances and services.

(g) Any combination of any two or more of the services listed in this subsection.

(h) Professional services of a licensed physical therapist.

(4) "Claimant" means a hospital, doctor, nurse, pharmacy, ambulance operator, supplier of prosthetic appliances and services or licensed physical therapist, who supplies care to an indigent patient, and who files a claim for charges therefor pursuant to this chapter. In respect of a hospital, it includes the operator or managing officer thereof. "Claimant" also means an indigent patient, or a personal representative of the patient after the death of the patient, but claims allowed shall be paid directly to those who supply care to the indigent patient; and an indigent claimant, or personal representative of the patient, has no right of appeal under ORS 445.160 (1969 Replacement Part).

(5) "Doctor" means a person licensed by the appropriate board of this state to practice one or more of the healing arts.

(6) "Hospital" includes nursing homes and means any institution that has a provider agreement with the authority and which admits and cares for patients suffering from motor vehicle injuries and applies for the benefits of this chapter in the manner provided in ORS 445.110.

(7) "Indigent patient" means a person who has suffered a motor vehicle injury and who is unable to pay the cost of the care supplied on account of such injury and, except in the case of a claim filed after a claim arising out of the same motor vehicle injury has been allowed by the authority or finally adjudged affirmatively by a court on appeal, whose account therefor remains unpaid at the expiration of 90 days after the termination of the care and who is not entitled to the benefits of the Workers' Compensation Law of this state or any other state or country on account of such injury.

(8) "Motor vehicle injury" means any personal injury suffered by a human being, and accidentally caused in, by, or as the proximate result of, the movement of a motor vehicle on a public way, street or highway within this state, whether the injured person is the operator of the vehicle, a passenger in the same or another vehicle, a pedestrian or whatever the relationship of the injured person to the movement of the vehicle, and whether or not the vehicle is under the control of a human being at the time of the injury.

(9) "Nurse" means a person registered or licensed to practice nursing by the Oregon State Board of Nursing.

(10) "Pharmacy" means a place of business licensed by the State Board of Pharmacy, where drugs, medicines, prescriptions, chemicals or poisons are compounded, dispensed or sold at retail.

(11) "Supplier of prosthetic appliances and services" means a place of business or person licensed to manufacture or supply prosthetic appliances and services.

(12) "Licensed physical therapist" means a physical therapist within the State of Oregon licensed by the Oregon Board of Physical Therapy. [Amended by 1953 c.399 §1; 1965 c.376 §1; 1969 c.247 §4; 1969 c.260 §1; 1973 c.141 §1; 1983 c.740 §164; 1985 c.279 §3; 2001 c.104 §183; 2009 c.595 §801; 2019 c.43 §4]

445.020 Determination of indigency. (1) A person injured by the movement of a motor vehicle is deemed unable to pay the charges for care if it appears that, upon due and diligent search and inquiry, the person, or any other person chargeable by law with the care or support of the person, cannot be found for service of summons, or that, should an action be brought and judgment secured against the person, or against any other person chargeable by law with the care or support of the person, for the amount of the charges, execution thereon would be unavailing.

(2) Indigency of a patient shall be determined as of the date on which the patient becomes unable to pay the cost of the care.

445.030 Motor Vehicle Accident Fund; source; uses. (1) There is created a fund to be known as the Motor Vehicle Accident Fund, to be held and deposited by the State Treasurer in such banks as are authorized to receive deposits of the General Fund.

(2) All moneys received by the Oregon Health Authority under this chapter shall forthwith be paid to the State Treasurer, and shall become a part of the fund.

(3) The following shall be paid from the fund:

(a) All claims and benefits allowed by the authority or finally adjudged affirmatively by a court on appeal in the amounts allowed or adjudged and within the limitations of ORS 445.060 and 445.070.

(b) All expenses of litigation incurred by the authority on any appeal.

(c) All court costs and disbursements assessed against the authority.

(d) All salaries, clerk hire, advances and reimbursement of travel costs and expenses incurred by the authority in the administration of this chapter.

(e) Expenses incurred by the authority in the administration of the Emergency Medical Services and Trauma Systems Program created pursuant to ORS 431A.085. The total amount of all payments from the fund for purposes of this paragraph shall be equal to $891,450 each biennium.

(4) Liability for payment of claims or judgments thereon, or both, and expenses authorized by this chapter shall be limited to the fund and all additions thereto made under this chapter. [Amended by 1965 c.376 §2; 1983 c.338 §29; 1983 c.740 §165; 1985 c.279 §4; 1997 c.546 §1; 2001 c.668 §6; 2009 c.595 §802]

445.040 [Repealed by 1961 c.672 §2]

445.050 Jurisdiction; rules. The Oregon Health Authority may:

(1) Hear and determine all questions within its jurisdiction.

(2) Promulgate and enforce all rules and regulations as may be proper in the administration and enforcement of this chapter. [Amended by 1985 c.279 §5; 2009 c.595 §803]

445.060 Limitation on benefits for care supplied. Except as provided in ORS 445.070, the payment of benefits authorized by this chapter is limited to care supplied within one year from the date of the motor vehicle injury and is further limited so that for care supplied to any one indigent patient by reason of any one motor vehicle injury:

(1) No hospital or hospitals shall receive from the fund more than $6,000, in the aggregate, except that a Level I or II trauma hospital or hospitals may receive up to $12,000, in the aggregate.

(2) No doctor or doctors shall receive from the fund more than $2,500, in the aggregate.

(3) No nurse or nurses shall receive from the fund more than $500, in the aggregate.

(4) No pharmacy or pharmacies shall receive from the fund more than $500, in the aggregate.

(5) No ambulance operator or ambulance operators shall receive from the fund more than $500, in the aggregate, except that an air ambulance or air ambulances may receive up to $2,000, in the aggregate.

(6) No supplier or suppliers of prosthetic appliances and services shall receive from the fund more than $500, in the aggregate.

(7) No licensed physical therapist or licensed physical therapists shall receive from the fund more than $500, in the aggregate. [Amended by 1953 c.399 §2; 1969 c.260 §2; 1973 c.141 §2; 1997 c.546 §2]

445.070 Additional benefits permitted within limits. If it is made to appear to the Oregon Health Authority that the limitations of ORS 445.060 are not sufficient to provide necessary and adequate care of an indigent patient and that the condition of the indigent patient warrants such action, the authority, in its sole discretion, the exercise of which shall be conclusive and not in any wise subject to review, may authorize the supplying of additional care to the indigent patient of the same type as the types of initial care authorized by this chapter and may pay for the same from the Motor Vehicle Accident Fund. No claim for additional care shall be enforceable under this chapter unless the authority first approves and authorizes in writing the supplying of such additional care. No single authorization shall be for more than:

(1) For additional care supplied by a hospital or hospitals, $500.

(2) For additional care supplied by a doctor or doctors, $300.

(3) For additional care supplied by a nurse or nurses, $200.

(4) For additional care supplied by a pharmacy or pharmacies, $100.

(5) For additional care supplied by an ambulance operator or ambulance operators, $50.

(6) For additional care supplied by a supplier or suppliers of prosthetic appliances and services, $100.

(7) For additional care supplied by a licensed physical therapist or licensed physical therapists, $100. [Amended by 1969 c.260 §3; 1973 c.141 §3; 1985 c.279 §6; 2009 c.595 §804]

445.080 [Amended by 1983 c.45 §1; repealed by 1985 c.279 §14]

445.090 Filing of claims; time for filing. (1) At the time of filing a claim under this chapter, the claimant shall submit to the Oregon Health Authority such information and data as the authority may reasonably require.

(2) A claim filed under this chapter must be filed with the authority within one year

after the termination of the care supplied by the claimant. However, in computing the time there shall not be included that period beginning when any claim under ORS chapter 656 arising out of the same motor vehicle accident is filed by the indigent patient with the authority, and ending when that claim has been finally decided. [Amended by 1953 c.399 §3; 1959 c.676 §1; 1965 c.376 §3; 1969 c.260 §4; 1983 c.45 §2; 2009 c.595 §805]

445.100 [Repealed by 1965 c.376 §6]

445.110 Hospital claims; form and contents. Each claim shall be made in writing in the form prescribed by the Oregon Health Authority, and shall show, and be accompanied by, the following matters and things:

(1) The name and last-known post-office address of the person to whom care has been given.

(2) The number of days' care, with the dates of admission to the hospital and of discharge therefrom or other termination of care.

(3) The amount of the claim.

(4) A statement in writing showing the effort made by the hospital to collect the amount of the claim, the facts indicating the indigency of the patient, and the amount, if any, of money received from the patient or others in payment of the account of the patient.

(5) If reasonably obtainable, the affidavit of the indigent patient or of the person or agency, if any, responsible for the patient, and, if reasonably obtainable, the statement in writing of a public or private agency engaged in the relief of the poor, verifying the indigency of the patient. If the affidavit or statement does not accompany the claim, and it is alleged in the claim that such absence is owing to the fact that the affidavit or statement is not reasonably obtainable, the claim shall set forth the facts upon which such assertion is based.

(6) Any other information and data the authority may reasonably require. [Amended by 1965 c.376 §4; 1983 c.45 §3; 1985 c.279 §7; 2009 c.595 §806]

445.120 Filing of claims generally; combining claims. (1) The claim of a claimant other than a hospital shall be in form and substance like that provided in ORS 445.110 in so far as applicable and be accompanied by the same supporting documents. However, only one set of supporting documents need be filed in respect of any one indigent patient in regard to any one motor vehicle injury.

(2) An account for the services of an orthodontist for orthodontia performed by the orthodontist on the order of the doctor in charge of the case or an account for care supplied by a nurse, pharmacy, ambulance operator, supplier of prosthetic appliances and services or services of a licensed physical therapist may be, with the consent of the doctor, assigned to, and included as a part in and of the claim of, a hospital or doctor. [Amended by 1969 c.260 §5; 1973 c.141 §4]

445.130 Effect of liability of third person or commencement of legal action on settlement of claim. For the purposes of claims under ORS 445.110 and 445.120, an indigent patient who is not otherwise able to pay the charges for care supplied shall not be deemed to be able to pay them because a third person might be held liable in an action to recover damages on account of the motor vehicle injury, if an action has not been commenced. If an action has been commenced, the claim shall show that fact. In that event the Oregon Health Authority may suspend the determination of the claim until the action has been terminated and from time to time require the claimant to supply such further information and data in respect of the action as the authority may deem necessary in order to determine the ultimate ability of the patient to pay the charges for which the claim is filed. [Amended by 1985 c.279 §8; 2009 c.595 §807]

445.140 Audit and determination of validity of claims. The Oregon Health Authority shall examine and audit each claim filed with it under this chapter. From the information and data contained in the claim, the reports of the claimant, the documents so accompanying and supporting the claim and such other evidence as it may reasonably require or itself adduce, the authority shall find and determine:

(1) Whether or not the claim has been filed within the time limited in ORS 445.090.

(2) Whether or not the claim is predicated upon care supplied to a person suffering from a motor vehicle injury.

(3) Whether or not the injured person is unable to pay the charges for which the claim is filed, within the meaning of ORS 445.020.

(4) Whether or not the claimant has made reasonable and timely effort to effect collection of its claim. [Amended by 1969 c.260 §6; 1985 c.279 §9; 2009 c.595 §808]

445.150 Order allowing or rejecting claim; notice. (1) If, in the matter of the claim, the Oregon Health Authority finds and determines in the affirmative in respect of items listed in ORS 445.140, the authority shall, by its order made and filed in the matter, allow the claim in such amount, not exceeding the limitations in ORS 445.060 and

445.070, less such amount as has been paid on the account.

(2) If in its judgment the maintenance of the solvency of the Motor Vehicle Accident Fund so requires, the authority may make payment in monthly installments of any claim which has been allowed by it, or finally adjudged affirmatively by a court on appeal.

(3) If the authority finds and determines in the negative in respect of any item listed in ORS 445.140, the authority shall, by its order made and filed therein, reject the claim.

(4) The authority promptly shall serve the claimant with a copy of its order, addressed to the claimant at the claimant's last-known post-office address as shown by the records and files of the authority. [Amended by 1983 c.45 §5; 1983 c.740 §116; 1985 c.279 §10; 2009 c.595 §809]

445.155 Judicial review. Judicial review of regulations under ORS 445.050 and orders under ORS 445.150 shall be in accordance with ORS chapter 183, provided that the amount involved in the appeal from the order exceeds $100, and provided further that the amount involved in the appeal from the decision of the court exceeds $500. [1971 c.734 §62]

445.160 [Repealed by 1971 c.734 §21]

445.170 [Repealed by 1985 c.279 §14]

445.180 Reassignment of rights to claimant on notice of finding person liable for care. (1) If it comes to the knowledge of a claimant who has received payment of a claim under this chapter that the patient in respect of whom the claim has been paid, or any other person chargeable by law with the care or support of the patient, has been paid, or is able to pay, the amount of the claim, the claimant shall diligently pursue such payment.

(2) A claimant who has received payment of a claim from the Oregon Health Authority under this chapter shall inform the authority promptly and in writing if:

(a) The claimant receives any payment from or on behalf of the patient in respect of whom the claim has been paid or from any person chargeable by law with the care or support of the patient;

(b) The claimant knows or has reason to believe that the patient or any person chargeable by law with the care or support of the patient is able to pay the amount of the claim or any part thereof; or

(c) The claimant or any person on behalf of the claimant institutes an action against the patient or any person chargeable by law with the care or support of the patient to recover all or part of the amount of the claim.

(3) All moneys paid to or for the use or benefit of the claimant by or on behalf of the patient shall, after deduction of the reasonable cost of recovering them, be paid to the authority for deposit in the Motor Vehicle Accident Fund. [Amended by 1985 c.279 §11; 2009 c.595 §810]

445.185 When deduction may be made from payments on claim. When a claimant fails to pursue payment as required by ORS 445.180 or to pay to the Oregon Health Authority the amount required by ORS 445.180 to be paid, the authority shall, after 60 days, deduct the amount paid by it on the claim from any subsequent payment made to the claimant unless it is made to appear to the satisfaction of the authority that:

(1) Upon due and diligent search and inquiry neither the patient nor any person chargeable by law with the care or support of the patient can be found;

(2) An action against the patient or a person chargeable by law with the care or support of the patient has been instituted and is pending; or

(3) An action has been prosecuted to final judgment, all legal remedies for satisfaction of the judgment have been exhausted and the judgment has not been collected. [1985 c.279 §13; 2009 c.595 §811]

445.190 [Repealed by 1985 c.279 §14]

445.200 [Repealed by 1985 c.279 §14]

445.210 [Repealed by 1985 c.279 §14]

445.220 [Repealed by 1985 c.279 §14]

445.230 [1961 c.470 §2; repealed by 1985 c.279 §14]

445.240 [1961 c.470 §3; 1983 c.45 §4; repealed by 1985 c.279 §14]

445.250 [1961 c.470 §4; repealed by 1985 c.279 §14]

445.260 [1961 c.470 §5; repealed by 1985 c.279 §14]

445.270 [1983 c.126 §3; repealed by 2009 c.595 §1204]

Miscellaneous Laws

The following pages contain a survey of miscellaneous laws from the Oregon Revised Statutes that relate directly or indirectly to motor vehicles or responsibilities of the Driver and Motor Vehicle Services Division (DMV) of the Department of Transportation. These chapters have been abridged to include only those sections with specific application to motor vehicles or their operation. **These are not complete chapters.** For that reason, the complete chapter should be consulted with reference to any specific statutory requirements.

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Chapter 1

CITATION AND PETITION FORMS

1.525 Uniform citation and petition forms for certain offenses. (1) The Supreme Court shall adopt one or more forms for the following purposes:

(a) A form of uniform violation citation for the purposes of ORS 153.045;

(b) A form of uniform criminal citation without complaint for the purposes of ORS 133.068;

(c) A form of uniform criminal citation with complaint for the purposes of ORS 133.069;

(d) Any form of uniform citation for categories of offenses as the court finds necessary or convenient; and

(e) A uniform petition for a driving while under the influence of intoxicants diversion agreement for the purposes of ORS 813.210.

(2) If changes are made to a uniform citation form under this section, the Supreme Court shall make a reasonable effort to minimize the financial impact of the changes on the state agencies and political subdivisions of this state that use the uniform citation form. Where possible, the effort to minimize the financial impact shall include a reasonable time for the state agencies and political subdivisions to exhaust their existing supplies of the citation form before the changes become effective.

(3) Except as provided in subsection (4) of this section, the uniform citation forms adopted by the Supreme Court under this section must be used by all enforcement officers, as defined in ORS 153.005, when issuing a violation citation or criminal citation.

(4) The uniform citation forms adopted by the Supreme Court under this section need not be used for:

(a) Offenses created by ordinance or agency rule governing parking of vehicles; or

(b) Offenses created by the ordinances of political subdivisions. [1979 c.477 §3; 1981 c.692 §5; 1981 c.803 §1; 1983 c.338 §879; 1985 c.725 §9; 1999 c.1051 §73]

Chapter 10

CIRCUIT COURT JURY LIST

10.215 Master jury list; sources; contents. (1) The State Court Administrator shall cause to be prepared at least once each year a master jury list containing names selected at random from the source lists. The source lists are the most recent list of electors of the county, the records furnished by the Department of Transportation as provided in ORS 802.260 (2) and any other sources approved by the Chief Justice of the Supreme Court that will furnish a fair cross section of the citizens of the county. The State Court Administrator and circuit courts may use source lists obtained from any person or public body, and jury lists containing names selected from a source list, only for purposes consistent with administering the selection and summoning of persons for service as jurors, the drawing of names of jurors, and other tasks necessary to accomplish those functions. Source lists may not contain and the State Court Administrator is not re quired to obtain information about individuals who are participants in the Address Confidentiality Program under ORS 192.820 to 192.868. Except as specifically provided by law, the State Court Administrator and circuit courts may not disclose source lists obtained from any person or public body, and jury lists containing names selected from a source list, to any other person or public body.

(2) A public body having custody, possession or control of any list that may be used as a source list for preparation of a master jury list, upon written request by the State Court Administrator, shall make its list available at any reasonable time and, except as otherwise provided in ORS 802.260, without charge to the State Court Administrator for inspection or copying. The public body, upon written request by the State Court Administrator, shall provide a copy of its list for the date and in the form requested to the State Court Administrator. Except as otherwise provided in ORS 802.260, the copy shall be provided without charge.

(3) The number of names placed on a master jury list shall be sufficient to meet the projected need for grand jurors and trial jurors in the circuit court in the county, but the total number may not be less than two percent of the population of the county according to the latest federal decennial census.

(4) A master jury list shall contain the first name, the surname, the place of residence and, if assigned, the juror identification number of each person whose name is placed thereon.

(5) A master jury list for a circuit court shall be certified by the State Court Administrator to have been prepared in compliance with the requirements of this section. A certified copy of the master jury list shall be provided to the circuit court for the county as soon as possible after the list is prepared.

(6) A newly filed master jury list shall be maintained separately from the previously filed master jury list. The presiding judge shall designate when a newly filed master jury list becomes effective. After a newly filed master jury list becomes effective, names of persons for a jury

list for a panel or term must be selected for a jury list for a panel or term from the newly filed master jury list and from names of any persons from the previously filed master jury list whose service was deferred. When a newly filed master jury list becomes effective, all orders, records and papers prepared in connection with the selection process based on the previously filed master jury list shall be preserved by the trial court administrator and State Court Administrator for the period prescribed by the State Court Administrator under ORS 8.125.

(7) The State Court Administrator may make adjustments to the master jury list, and may authorize the presiding judge of a judicial district to make adjustments to a jury list for a panel or term, for the purpose of updating the addresses of persons appearing on the lists and removing the names of persons who are deceased, permanently ineligible for jury service or permanently excused from jury service. The State Court Administrator shall ensure that a record is maintained of all adjustments to jury lists made under this subsection.

(8) For the purposes of this section, "public body" has the meaning given that term in ORS 174.109. [1985 c.703 §13; 1987 c.681 §3; 1995 c.273 §6; 1995 c.781 §24a; 1997 c.872 §15; 2001 c.779 §14; 2003 c.803 §18; 2005 c.385 §5; 2007 c.542 §14; 2013 c.2 §4]

Chapter 25

SUSPENSION OF OCCUPATIONAL AND DRIVER LICENSES

25.750 Suspension of licenses, certificates, permits and registrations; when authorized; rules. (1) All licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession or to use a particular occupational or professional title, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driver licenses or permits issued by the Department of Transportation and recreational hunting and fishing licenses, as defined by rule of the Department of Justice, are subject to suspension by the respective issuing entities upon certification to the issuing entity by the administrator that a child support case record is being maintained by the Department of Justice, that the case is being enforced by the administrator under the provisions of ORS 25.080 and that one or both of the following conditions apply:

(a) That the party holding the license, certificate, permit or registration is in arrears under any child support judgment or order, in an amount equal to the greater of three months of support or $2,500, and:

(A) Has not entered into an agreement with the administrator with respect to the child support obligation; or

(B) Is not in compliance with an agreement entered into with the administrator; or

(b) That the party holding the license, certificate, permit or registration has failed, after receiving appropriate notice, to comply with a subpoena or other procedural order relating to a parentage or child support proceeding and:

(A) Has not entered into an agreement with the administrator with respect to compliance; or

(B) Is not in compliance with such an agreement.

(2) The Department of Justice by rule shall specify the conditions and terms of agreements, compliance with which precludes the suspension of the license, certificate, permit or registration. [1993 c.365 §2; 1995 c.620 §1; 1995 c.750 §7; 1997 c.704 §37; 1999 c.80 §11; 2001 c.323 §1; 2001 c.455 §14; 2003 c.73 §43; 2009 c.209 §1; 2017 c.651 §12]

25.756 Identifying persons holding licenses, certificates, permits and registrations. The Department of Justice shall enter into agreements regarding the identification of persons who are subject to the provisions of ORS 25.750 to 25.783 and who hold licenses, certificates, permits or registrations with:

(1) The Oregon Liquor Control Commission;

(2) All entities that issue licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title; and

(3) The Department of Transportation. [1993 c.365 §4; 1995 c.620 §2; 1995 c.750 §8; 1997 c.704 §38; 1999 c.80 §12]

25.771 Obligor holding more than one license, certificate, permit or registration. In the event that an obligor holds more than one license, certificate, permit or registration described in ORS 25.750, any determination regarding suspension of one license, certificate, permit or registration is sufficient to suspend any other license, certificate, permit or registration described in ORS 25.750. [1993 c.365 §9; 1995 c.620 §6]

25.774 Reinstatement. When, at any time after suspension under ORS 25.750 to 25.783, the conditions resulting in the suspension no longer exist, the administrator shall so notify the issuing entity and shall confirm that the license, certificate, permit or registration may be reinstated contingent upon the requirements of the issuing entity. Until the issuing entity receives notice under this section, the issuing entity may not reinstate, reissue, renew or otherwise make the license, certificate, permit or registration available to the holder of the suspended license,

certificate, permit or registration. [1993 c.365 §10; 1995 c.620 §7; 1999 c.80 §16; 2001 c.323 §6]

25.777 Reimbursing issuing entities for costs incurred. The Department of Justice shall enter into agreements to reimburse issuing entities for their costs of compliance with ORS 25.750 to 25.783 to the extent that those costs are eligible for Federal Financial Participation under Title IV-D of the Social Security Act. [1993 c.365 §11; 1995 c.620 §8; 2001 c.323 §7]

25.780 Other licenses, certificates, permits and registrations subject to suspension. In addition to any other grounds for suspension provided by law:

(1) The Oregon Liquor Control Commission and any entity that issues licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title shall suspend without further hearing the licenses, certificates, permits or registrations of a person upon certification by the administrator that the person is subject to an order suspending the license, certificate, permit or registration. The certification must include the information specified in ORS 25.750 (1).

(2) The Department of Transportation shall suspend without further hearing the driver license or driver permit of a person upon certification by the administrator that the person is subject to an order suspending the license or permit. The certification must include the information specified in ORS 25.750 (1). [1993 c.365 §13; 1995 c.620 §9; 1995 c.750 §5; 1999 c.80 §17; 2001 c.323 §8]

25.783 Confidentiality of information. Any entity described in ORS 25.756 that receives an inquiry as to the status of a person who has had a license, certificate, permit or registration suspended under ORS 25.750 to 25.783 shall respond only that the license, certificate, permit or registration was suspended pursuant to ORS 25.750 to 25.783. The entity shall not release or make other use of information that it receives pursuant to ORS 25.750 to 25.783. [1993 c.365 §14; 1995 c.620 §10]

25.785 Issuing entities to require Social Security number. (1) Any state agency, board or commission that is authorized to issue an occupational, professional, recreational or driver license, certificate, permit or registration subject to suspension under ORS 25.750 to 25.783 shall require that an individual's Social Security number be recorded on an application for, or form for renewal of, a license, certificate, permit or registration and to the maximum extent feasible shall include the Social Security number in automated databases containing information about the individual.

(2) A state agency, board or commission described in subsection (1) of this section may accept a written statement from an individual who has not been issued a Social Security number by the United States Social Security Administration to fulfill the requirement in subsection (1) of this section.

(3) An individual may not submit to a state agency, board or commission a written statement described in subsection (2) of this section knowing the statement to be false. [1997 c.746 §117; 1999 c.80 §93; 2003 c.610 §1; 2005 c.22 §17]

Note: 25.785 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Chapter 30

LIABILITY OF CERTAIN PERSONS PROVIDING MOTOR VEHICLES

30.135 Liability of certain persons that lend, rent, donate use of, make available for test drive or otherwise provide motor vehicle. (1) Subject to the provisions of this section, a person that lends, rents, donates use of, makes available for test drive or otherwise provides a motor vehicle, as defined in ORS 801.360, to another person is not liable for any injury, death or damage that arises out of the use of that motor vehicle by the other person, unless the person providing the motor vehicle is negligent in maintaining the motor vehicle or in providing the motor vehicle and the injury, death or damage results from that negligence.

(2) The limitation on liability provided by this section applies only if the person providing the motor vehicle is engaged in the business of selling, renting, leasing or repairing motor vehicles and the motor vehicle is provided to another person in the course of that business.

(3) The limitation on liability provided by this section applies only if there is a written agreement between the person providing the motor vehicle and the person receiving the motor vehicle, and the agreement specifically indicates that the person receiving the motor vehicle is liable for any injury, death or damage arising out of the use of the motor vehicle. The limitation on liability provided by this section applies to injury, death or damage suffered during the period specified in the written agreement, or until the return of the motor vehicle, whichever is later.

(4) The limitation on liability provided by this section applies without regard to whether the motor vehicle is provided for consideration or is provided without charge.

(5) Nothing in this section affects the liability of a manufacturer, distributor, seller or lessor of a product under the provisions of ORS 30.900 to 30.920.

(6) Nothing in this section increases, reduces or relates to those obligations that a self-insurer may choose to undertake pursuant to ORS 806.130. Nothing in ORS 806.130 increases, reduces or relates to the limitations of this section. [1999 c.438 §1; 2001 c.291 §1; 2003 c.331 §1; 2007 c.287 §4]

MISCELLANEOUS ACTIONS

Dishonored Check Fees

30.701 Actions against maker of dishonored check; statutory damages and attorney fees; handling fee. (1) In any action against a maker of a dishonored check, a payee may recover from the maker statutory damages in an amount equal to $100 or triple the amount for which the check is drawn, whichever is greater. Statutory damages awarded under this subsection are in addition to the amount for which the check was drawn and may not exceed by more than $500 the amount for which the check was drawn. The court shall allow reasonable attorney fees at trial and on appeal to the prevailing party in an action on a dishonored check and in any action on a check that is not paid because payment has been stopped.

(2) Statutory damages and attorney fees under subsection (1) of this section may be awarded only if the payee made written demand of the maker of the check not less than 30 days before commencing the action and the maker failed to tender to the payee before the commencement of the action an amount of money not less than the amount for which the check was drawn, all interest that has accrued on the check under ORS 82.010 as of the date of demand and any charges imposed under subsection (5) of this section.

(3) Statutory damages under subsection (1) of this section shall not be awarded by the court if after the commencement of the action but before trial the defendant tenders to the plaintiff an amount of money equal to the amount for which the check was drawn, all interest that has accrued on the check under ORS 82.010 as of the date of payment, any charges imposed under subsection (5) of this section, costs and disbursements and the plaintiff's reasonable attorney fees incurred as of the date of the tender.

(4) If the court or jury determines that the failure of the defendant to satisfy the dishonored check at the time demand was made under subsection (2) of this section was due to economic hardship, the court or jury has the discretion to waive all or part of the statutory damages provided for in subsection (1) of this section. If all or part of the statutory damages are waived under this subsection, judgment shall be entered in favor of the plaintiff for the amount of the dishonored check, all interest that has accrued on the check under ORS 82.010, any charges imposed under subsection (5) of this section, the plaintiff's reasonable attorney fees and costs and disbursements.

(5) If a check is dishonored, the payee may collect from the maker a fee not to exceed $35. Any award of statutory damages under subsection (1) of this section must be reduced by the amount of any charges imposed under this subsection that have been paid by the maker or that are entered as part of the judgment.

(6) The provisions of this section apply only to a check that has been dishonored because of a lack of funds or credit to pay the check, because the maker has no account with the drawee or because the maker has stopped payment on the check without good cause. A plaintiff is entitled to the remedies provided by this section without regard to the reasons given by the drawee for dishonoring the check.

(7) For the purposes of this section:

(a) "Check" means a check, draft or order for the payment of money.

(b) "Drawee" has that meaning given in ORS 73.0103.

(c) "Payee" means a payee, holder or assignee of a check. [1997 c.182 §2 (enacted in lieu of 30.700); 1999 c.707 §1; 2011 c.449 §1]

Chapter 45

INTERPRETERS

45.272 Definitions for ORS 45.272 to 45.297. As used in ORS 45.272 to 45.297:

(1) "Adjudicatory proceeding" means:

(a) Any contested case hearing conducted under ORS chapter 183; or

(b) Any hearing conducted by an agency in which the individual legal rights, duties or privileges of specific parties are determined if that determination is subject to judicial review by a circuit court or by the Court of Appeals.

(2) "Agency" has that meaning given in ORS 183.310.

(3) "Critical stage of the proceeding" has the meaning given that term in ORS 147.500.

(4) "Victim" has the meaning given that term in ORS 147.500. [1999 c.1041 §3; 2015 c.155 §1]

45.273 Policy. (1) It is declared to be the policy of this state to secure the constitutional rights and other rights of persons who are unable to readily understand or communicate in the English language because of a non-English-speaking cultural background or a disability, and who as a result cannot be fully protected in administrative and court proceedings unless qualified interpreters are available to provide assistance.

(2) It is the intent of the Legislative Assembly in passing ORS 45.272 to 45.297 to provide a procedure for the qualification and use of court interpreters. Nothing in ORS 45.272 to 45.297 abridges the rights or obligations of parties under other laws or court rules. [1993 c.687 §1; 1999 c.1041 §1]

45.275 Appointment of interpreter for non-English-speaking party, witness or victim; substitution; payment of costs. (1)(a) The court shall appoint a qualified interpreter in a civil or criminal proceeding, and a hearing officer or the designee of a hearing officer shall appoint a qualified interpreter in an adjudicatory proceeding, whenever it is necessary:

(A) To interpret the proceedings to a non-English-speaking party;

(B) To interpret the testimony of a non-English-speaking party or witness; or

(C) To assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer.

(b) The court shall appoint a qualified interpreter in a criminal proceeding whenever it is necessary to interpret the proceedings to a non-English-speaking victim who seeks to exercise in open court a right that is granted by Article I, section 42 or 43, of the Oregon Constitution, including the right to be present at a critical stage of the proceeding.

(2) A fee may not be charged to any person for the appointment of an interpreter to interpret testimony of a non-English-speaking party or witness, to interpret the proceedings to a non-English-speaking party or victim or to assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer. A fee may not be charged to any person for the appointment of an interpreter if appointment is made to determine whether the person is non-English-speaking for the purposes of this section.

(3) Fair compensation for the services of an interpreter appointed under this section shall be paid:

(a) By the county, subject to the approval of the terms of the contract by the governing body of the county, in a proceeding in a county or justice court.

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state are not payable from the Public Defense Services Account established by ORS 151.225 or from moneys appropriated to the Public Defense Services Commission. Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case are payable from the Public Defense Services Account or from moneys appropriated to the Public Defense Services Commission.

(d) By the agency in an adjudicatory proceeding.

(4) If a party, victim or witness is dissatisfied with the interpreter appointed by the court, the hearing officer or the designee of the hearing officer, the party, victim or witness may request the appointment of a different interpreter. A request under this subsection must be made in a manner consistent with the policies and notice requirements of the court or agency relating to the appointment and scheduling of interpreters. If the substitution of another interpreter will delay the proceeding, the person making the request must show good cause for the substitution. Any party may object to use of any interpreter for good cause. Unless the court, hearing officer or the designee of the hearing officer has appointed a different interpreter for cause, the party using any interpreter other than the interpreter originally appointed by the court, hearing officer or the designee of the hearing officer shall bear any additional costs beyond the amount required to pay the original interpreter.

(5) A judge or hearing officer, on the judge's or hearing officer's own motion, may substitute a different interpreter for the interpreter initially appointed in a proceeding. A judge or hearing officer may make a substitution under this subsection at any time and for any reason.

(6) A court may allow as costs reasonable expenses incurred by a party in employing the services of an interpreter in civil proceedings in the manner provided by ORCP 68.

(7) A court, a hearing officer or the designee of a hearing officer shall require any person serving as an interpreter for the court or agency to state the person's name on the record and whether the person is certified under ORS 45.291. If the person is certified under ORS 45.291, the interpreter need not make the oath or affirmation required by ORS 40.325 or submit the interpreter's qualifications on the record. If the person is not certified under ORS 45.291, the interpreter must make the oath or affirmation required by ORS 40.325 and submit the interpreter's qualifications on the record.

(8) For the purposes of this section:

(a) "Hearing officer" includes an administrative law judge.

(b) "Non-English-speaking person" means a person who, by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings.

(c) "Qualified interpreter" means a person who is readily able to communicate with the non-English-speaking person and who can orally transfer the meaning of statements to and from English and the language spoken by

the non-English-speaking person. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. "Qualified interpreter" does not include any person who is unable to interpret the dialect, slang or specialized vocabulary used by the party, victim or witness. [1991 c.750 §2; 1993 c.687 §8; 1995 c.273 §16; 1997 c.872 §18; 1999 c.1041 §4; 2001 c.242 §1; 2001 c.962 §§65,66; 2003 c.75 §§77,78; 2005 c.385 §2; 2012 c.107 §39; 2015 c.155 §2]

45.285 Appointment of interpreter for party, witness or victim with disability; provision of assistive communication device. (1) For the purposes of this section:

(a) "Assistive communication device" means any equipment designed to facilitate communication by a person with a disability.

(b) "Hearing officer" includes an administrative law judge.

(c) "Person with a disability" means a person who cannot readily understand the proceedings because of deafness or a physical hearing impairment, or cannot communicate in the proceedings because of a physical speaking impairment.

(d) "Qualified interpreter" means a person who is readily able to communicate with the person with a disability, interpret the proceedings and accurately repeat and interpret the statements of the person with a disability to the court.

(2) In any civil action, adjudicatory proceeding or criminal proceeding, including a court-ordered deposition if no other person is responsible for providing an interpreter, in which a person with a disability is a party or witness, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to the person with a disability, or to interpret the testimony of the person with a disability.

(3) In any criminal proceeding, the court shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to a victim who is a person with a disability and who seeks to exercise in open court a right that is granted by Article I, section 42 or 43, of the Oregon Constitution, including the right to be present at a critical stage of the proceeding.

(4) A fee may not be charged to the person with a disability for the appointment of an interpreter or use of an assistive communication device under this section. A fee may not be charged to any person for the appointment of an interpreter or the use of an assistive communication device if appointment or use is made to determine whether the person is a person with a disability for the purposes of this section.

(5) Fair compensation for the services of an interpreter or the cost of an assistive communication device under this section shall be paid:

(a) By the county, subject to the approval of the terms of the contract by the governing body of the county, in a proceeding in a county or justice court.

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state are not payable from the Public Defense Services Account established by ORS 151.225 or from moneys appropriated to the Public Defense Services Commission. Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case are payable from the Public Defense Services Account or from moneys appropriated to the Public Defense Services Commission.

(d) By the agency in an adjudicatory proceeding. [1991 c.750 §1; 1993 c.687 §6; 1999 c.1041 §5; 2001 c.962 §§67,68; 2003 c.75 §§79,80; 2007 c.70 §13; 2012 c.107 §40; 2015 c.155 §3]

45.288 Appointment of certified interpreter required; exceptions; disqualifications; code of professional responsibility.

(1) For the purposes of this section:

(a) "Hearing officer" includes an administrative law judge.

(b) "Non-English-speaking person" has the meaning given that term in ORS 45.275.

(c) "Person with a disability" has the meaning given that term in ORS 45.285.

(d) "Qualified interpreter" means a person who meets the requirements of ORS 45.285 for an interpreter for a person with a disability, or a person who meets the requirements of ORS 45.275 for an interpreter for a non-English-speaking person.

(2) Except as provided by this section, whenever a court is required to appoint an interpreter for any person in a proceeding before the court, or whenever a hearing officer is required to appoint an interpreter in an adjudicatory proceeding, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter who has been certified under ORS 45.291. If no certified interpreter is available, able or willing to serve, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter. Upon request of a party, victim or witness, the court, hearing officer or designee of the hearing officer, in the discretion of the court, hearing officer or the designee of the hearing officer, may appoint a qualified interpreter to act

as an interpreter in lieu of a certified interpreter in any case or adjudicatory proceeding.

(3) The requirements of this section apply to appointments of interpreters for persons with disabilities and for non-English-speaking persons.

(4) The court, hearing officer or the designee of the hearing officer may not appoint any person under ORS 45.272 to 45.297, 132.090 or 419C.285 if:

(a) The person has a conflict of interest with any of the parties, victims or witnesses in the proceeding;

(b) The person is unable to understand the judge, hearing officer, party, victim or witness, or cannot be understood by the judge, hearing officer, party, victim or witness; or

(c) The person is unable to work cooperatively with the judge of the court, the hearing officer, the person in need of an interpreter or the counsel for that person.

(5) The Supreme Court shall adopt a code of professional responsibility for interpreters. The code is binding on all interpreters who provide interpreter services in the courts or in adjudicatory proceedings before agencies. [1993 c.687 §2; 1999 c.1041 §6; 2001 c.242 §2; 2001 c.243 §2; 2003 c.75 §81; 2007 c.70 §14; 2015 c.155 §4]

Chapter 54

JUSTICE COURT JURY LIST

54.060 Making of jury lists. (1) The justice of the peace in each district shall, in January of each year, or in case of an omission or neglect so to do then as soon as possible thereafter, make a jury list for the district.

(2) A preliminary jury list shall be made by selecting names of inhabitants of the district by lot from the latest jury list sources. The jury list sources are the elector registration list for the district, copies of the Department of Transportation records for the county referred to in ORS 802.260 (2) furnished to the justice at county expense by the clerk of court, as defined in ORS 10.010, for the county and any other source that the justice determines will furnish a fair cross section of the inhabitants of the district.

(3) Jury list sources may not contain and the justice of the peace is not required to obtain information about individuals who are participants in the Address Confidentiality Program under ORS 192.820 to 192.868.

(4) From the preliminary jury list the names of those persons known not to be qualified by law to serve as jurors shall be deleted. The remaining names shall constitute the jury list. The preliminary jury list and jury list may be made by means of electronic equipment. [Amended by 1983 c.673 §14; 1987 c.681 §4; 2007 c.542 §15]

Chapter 79

SECURED TRANSACTIONS

Perfection and Priority

79.0303 UCC 9-303. Law governing perfection and priority of security interests in goods covered by a certificate of title. (1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title. [2001 c.445 §23]

Default

(Default and Enforcement of Security Interest)

79.0607 UCC 9-607. Collection and enforcement by secured party. (1) If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under ORS 79.0315;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under ORS 79.0104 (1)(a), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under ORS 79.0104 (1)(b) or (c), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under subsection (1)(c) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded the secured party's sworn affidavit, with a copy of the security agreement attached thereto. The affidavit shall be in recordable form and state that:

(a) A default has occurred with respect to the obligation secured by the mortgage; and

(b) The secured party is entitled to enforce the mortgage nonjudicially.

(3)A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.(4) A secured party may deduct from the collections made pursuant to subsection (3) of this section reasonable expenses of collection and enforcement, including reasonable attorney fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank or other person obligated on collateral owes a duty to a secured party. [2001 c.445 §105; 2012 c.12 §18]

79.0609 UCC 9-609. Secured party's right to take possession after default. (1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under ORS 79.0610.

(2) A secured party may proceed under subsection (1) of this section:

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. [2001 c.445 §107]

79.0610 UCC 9-610. Disposition of collateral after default. (1) After default, a secured party may sell, lease, license or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license or other disposition includes the warranties relating to title, possession, quiet enjoyment and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4) of this section:

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) of this section if it indicates "There is no warranty relating to title, possession, quiet enjoyment or the like in this disposition" or uses words of similar import. [2001 c.445 §108]

79.0611 UCC 9-611. Notification before disposition of collateral. (1) As used in this section, "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4) of this section, a secured party that disposes of collateral under ORS 79.0610 shall send to the persons specified in subsection (3) of this section a reasonable authenticated notification of disposition.

(3) To comply with subsection (2) of this section, the secured party shall send an authenticated notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

(A) Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) Identified the collateral;

(ii) Was indexed under the debtor's name as of that date; and

(iii) Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation or treaty described in ORS 79.0311 (1).

(4) Subsection (2) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subsection (3)(c)(B) of this section if:

(a) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (3)(c)(B) of this section; and

(b) Before the notification date, the secured party:

(A) Did not receive a response to the request for information; or

(B) Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral. [2001 c.445 §109]

79.0612 UCC 9-612. Timeliness of notification before disposition of collateral.

(1) Except as otherwise provided in subsection (2) of this section, a notification of disposition sent after default and 15 days or more before the earliest time of disposition, as set forth in the notification, is sent within a reasonable time before the disposition.

(2) In a transaction other than a consumer transaction, a notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition. [2001 c.445 §110]

79.0619 UCC 9-619. Transfer of record or legal title. (1) As used in this section, "transfer statement" means a record authenticated by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official system for filing, recording or registration covering the collateral or in accordance with the provisions of ORS 79.0311 (2), 446.611 or 446.626. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) of this section or otherwise is not of itself a disposition of collateral under this chapter and does not of itself relieve the secured party of its duties under this chapter. [2001 c.445 §117; 2012 c.12 §19]

(Noncompliance with Chapter)

79.0625 UCC 9-625. Remedies for secured party's failure to comply with article. (1) If it is established that a secured party is not proceeding in accordance with this chapter, a court may order or restrain collection, enforcement or disposition of collateral on appropriate terms and conditions.

(2) Subject to subsections (3), (4) and (6) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter. Loss caused by a failure to comply may include loss resulting from the

debtor's inability to obtain, or increased costs of, alternative financing.

(3) Except as otherwise provided in ORS 79.0628:

(a) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may, in an individual action only, recover damages under subsection (2) of this section for its loss;

(b) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with ORS 79.0601 to 79.0628 may, in an individual action only, recover an amount not less than $1,000; and

(c) The court may award reasonable attorney fees to the prevailing party in an action under this subsection.

(4) A debtor whose deficiency is eliminated under ORS 79.0626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under ORS 79.0626 may not otherwise recover under subsection

(2) of this section for noncompliance with the provisions of ORS 79.0601 to 79.0628 relating to collection, enforcement, disposition or acceptance.

(5) Regarding a transaction that is a consumer transaction or in which the collateral is consumer goods, in addition to any damages recoverable under subsection (2) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may, in an individual action only, recover $500 for each instance from a person that:

(a) Fails to comply with ORS 79.0208;

(b) Fails to comply with ORS 79.0209;

(c) After July 1, 2001, files a record that the person is not entitled to file under ORS 79.0509 (1) if the record is not released or terminated within 10 days after receipt by the secured party of an authenticated request from the debtor that explains the basis for the request;

(d) Fails to cause the secured party of record to file or send a termination statement as required by ORS 79.0513 (1) or (3); or

(e) Fails to comply with ORS 79.0616 (2) and whose failure is part of a pattern, or consistent with a practice, of noncompliance.

(6) A debtor or consumer obligor may recover damages under subsection (2) of this section and, in addition, $500 in each case from a person that, without reasonable cause, fails to comply with a request under ORS 79.0210. A recipient of a request under ORS 79.0210 which never claimed an interest in the collateral or obligations that are the subject of a request under ORS 79.0210 has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under ORS 79.0210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure. [2001 c.445 §123]

Chapter 83

RETAIL INSTALLMENT CONTRACTS

Motor Vehicles; Mobile Homes

83.510 Definitions for ORS 83.510 to 83.680. As used in ORS 83.510 to 83.680 except where the context otherwise requires:

(1) "Cash sale price" means the price for which the motor vehicle dealer would sell to the buyer, and the buyer would buy from the motor vehicle dealer, the motor vehicle that is covered by the retail installment contract, if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes, registration, license and other fees and charges for accessories and their installation and for delivering, servicing, repairing or improving the motor vehicle.

(2) "Finance charge" means that part of the time sale price that exceeds the aggregate of the cash sale price, the amounts, if any, included in a retail installment sale for insurance and other benefits, and official fees.

(3) (a) "Financing agency" means a person engaged, in whole or in part, in purchasing or otherwise acquiring retail installment contracts or retail lease agreements from one or more motor vehicle dealers or retail lessors. "Financing agency" includes, but is not limited to, financial institutions, as defined in ORS 706.008, and consumer credit companies, if so engaged. "Financing agency" also includes a motor vehicle dealer or retail lessor engaged, in whole or in part, in the business of holding retail installment contracts or retail lease agreements acquired from retail buyers or retail lessees.

(b) "Financing agency" does not include the pledgee or other holder of more than one retail installment contract or retail lease agreement pledged or otherwise given by a motor vehicle dealer or a transferee from the motor vehicle dealer to a lender as collateral security for a loan made to the motor vehicle dealer or transferee of the motor vehicle dealer.

(4) "Holder" of a retail installment contract or retail lease agreement means the motor vehicle dealer or retail lessor of the motor vehicle covered by the contract or lease or, if the contract or lease is purchased or otherwise acquired by a financing

agency or other assignee, the financing agency or other assignee.

(5) "Mobile home" means a structure, transportable in one or more sections, that is eight body feet or more in width and 32 body feet or more in length, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the re quired utilities. "Mobile home" includes the plumbing, heating, air conditioning and electrical systems contained within the structure.

(6) (a) "Motor vehicle" or "vehicle" means:

(A) A self-propelled device used for transportation of person or property upon a public highway.

(B) A trailer, semitrailer, mobile home or trailer home.

(b) "Motor vehicle" or "vehicle" does not include tractors, power shovels, road machinery, agricultural machinery, boat trailers or other machinery not designed primarily for highway transportation, which may be used incidentally to transport persons or property on a public highway, or devices that move upon or are guided by a track or travel through the air.

(7) "Motor vehicle dealer" means any person who sells, trades, leases, displays or offers for sale, trade, lease or exchange mo tor vehicles pursuant to a retail installment contract or retail lease agreement or who offers to negotiate or purchase motor vehicles on behalf of third parties pursuant to a retail installment contract or retail lease agreement.

(8) "Official fees" means the filing or other fees required by law to be paid to a public officer to perfect the interest or lien, in or on a motor vehicle, retained or taken by a motor vehicle dealer under a retail installment contract or retail lease agreement, and to file or record a release, satisfaction or discharge of the contract.

(9) "Person" means individual, partner ship, corporation, association or other group, however organized.

(10) "Retail buyer" or "buyer" means a person who buys a motor vehicle from a motor vehicle dealer and who executes a retail installment contract in connection therewith.

(11) "Retail installment contract" or "contract" means an agreement, entered into in this state, pursuant to which the title to, the property in or a lien upon a motor vehicle, which is the subject matter of a retail installment sale, is retained or taken by a motor vehicle dealer from a retail buyer as security, in whole or in part, for the buyer's obligation. "Retail installment contract" or "contract" includes a chattel mortgage, a conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or for no other or for a merely nominal consideration has the option of becoming, the owner of the motor vehicle upon full compliance with the terms of the contract.

(12) (a) "Retail installment sale" or "sale" means a sale of a motor vehicle by a motor vehicle dealer to a retail buyer for a time sale price payable in one or more installments, payment of which is secured by a retail installment contract. "Retail installment sale" or "sale" includes a bailment or leasing as described in subsection (11) of this section.

(b) "Retail installment sale" or "sale" does not include a sale of a motor vehicle for resale in the ordinary course of the buyer's business.

(13) "Retail lease" means a lease of a motor vehicle by a retail lessor to a retail lessee, payment of which is secured by a retail lease agreement. "Retail lease" does not include a lease that constitutes a retail installment contract.

(14) "Retail lease agreement" means an agreement entered into in this state between a retail lessor and a retail lessee for the lease of a motor vehicle. The agreement shall be in the form of a bailment or lease for the use of a motor vehicle by an individual for personal, family or household purposes, whether or not the retail lessee has the option to purchase or otherwise become the owner of the motor vehicle at the expiration of the lease.

(15) "Retail lessee" means a person who leases a motor vehicle from a retail lessor by entering into a retail lease agreement.

(16) "Retail lessor" means a motor vehicle dealer who transfers an interest in or supplies a motor vehicle to a retail lessee, regardless of whether or not the motor vehicle dealer is identified as the retail lessor on the retail lease agreement.

(17) "Time sale price" means the aggregate of the cash sale price of the motor vehicle, the amount, if any, included for insurance and other benefits, official fees and the finance charge. [1957 c.625 §1; 1979 c.304 §1; 1979 c.816 §1a; 1987 c.674 §1; 1997 c.631 §383; 2001 c.104 §25; 2001 c.117 §1]

83.520 Form and contents of retail installment contract. (1) A retail installment contract shall be in writing, shall contain all the agreements of the parties, shall contain the names of the motor vehicle dealer and the buyer, the place of business of the motor vehicle dealer, the residence or place of business of the buyer as specified by the buyer and a description of the motor vehicle including its make, year model, model and identification numbers or marks, and shall be signed by the buyer and the motor vehicle dealer.

(2) The printed portion of the contract shall be in at least 8-point type. The contract shall

contain in printing or writing of a size equal to at least 10-point bold type, the following:

(a) Both at the top of the contract and directly above the space reserved for the signature of the buyer, the words "RETAIL INSTALLMENT CONTRACT";

(b) A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and

(c) The following notice::

NOTICE TO THE BUYER

Do not sign this contract before you read it or if it contains any blank space, except that:

(1) If delivery of the motor vehicle or mobile home is to be made to you after this contract is signed, the serial number or other identifying information and the due date of the first installment may be filled in at the time of delivery; and

(2) If the name of the financing agency is not known at the time the contract is executed, the name of the financing agency may be inserted in the contract on or about the date the name of the financing agency is known.

You are entitled to a copy of this contract.

You have the right to pay off in advance the full amount due and to obtain a partial refund of the finance charge.

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(3) The contract shall contain the following items:

(a) The cash sale price of the motor vehicle which is the subject matter of the retail installment sale.

(b) The amount of the buyer's down payment, itemizing the amounts, if any, paid or credited in money or in goods and containing a brief description of the goods traded in.

(c) The difference between the items set forth in paragraphs (a) and (b) of this subsection.

(d) The amount, if any, included for insurance and other benefits, specifying the coverages and benefits. For purposes of this paragraph, "other benefits" includes any amounts actually paid or to be paid by the motor vehicle dealer pursuant to an agreement with the buyer to discharge a security interest, lien or lease interest on property traded in.

(e) The amount, if any, of official fees.

(f) The principal balance, which is the sum of the items set forth in paragraphs (c),

(d) and (e) of this subsection.

(g) The amount of the finance charge.

(h) The time balance, which is the sum of the items set forth in paragraphs (f) and

(g) of this subsection.

(i) The time sale price.

(j) A plain and concise statement of the amount in dollars of each installment or future payment to be made by the buyer, the number of installments required, and the date or dates at which, or period or periods in which, the installments are due.

(4) The contract may contain additional items to explain the calculations involved in determining the stated time balance to be paid by the buyer. [1957 c.625 §§2,3,5; 1979 c.816 §2; 1995 c.519 §3; 1999 c.525 §1; 2001 c.117 §5]

83.530 Filling blanks. (1) Except as provided in subsection (2) of this section, a retail installment contract shall not be signed by any party to the contract when the contract contains blank spaces to be filled in after the contract is executed.

(2) A retail installment contract may be signed by any party to the contract when the contract contains blank spaces to be filled in after the contract is executed under the following conditions:

(a) If delivery of the motor vehicle is not made at the time of execution, the identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract on or about the date of delivery.

(b) If the name of the financing agency is not known at the time the contract is executed, the name of the financing agency may be inserted in the contract on or about the date the name of the financing agency is known. [1957 c.625 §8; 1995 c.519 §4]

83.540 Delivery of copy of contract to buyer. The motor vehicle dealer shall deliver to the buyer, or mail to the buyer at the address shown on the contract, a copy of the contract signed by the motor vehicle dealer. Until the motor vehicle dealer does so, a buyer who has not received delivery of the motor vehicle shall have an unconditional right to cancel the contract and to receive immediate refund of any amount paid and redelivery of all goods delivered or traded in to the motor vehicle dealer on account of or in contemplation of the contract. An acknowledgment by the buyer of delivery of a copy of the contract shall be printed or written in a size equal to at least 10-point bold type and, if contained in the contract, shall also appear directly above the legend required above the buyer's signature by ORS 83.520 (2)(a). [1957 c.625 §4; 2001 c.117 §6]

83.560 Finance charge. A motor vehicle dealer may, in a retail installment contract, contract for and charge, receive and collect a finance charge agreed upon by the motor vehicle dealer and buyer. [1957 c.625 §§19,20,21; 1979 c.816 §3; 1981 c.412 §2; 2001 c.117 §7]

83.565 Finance charge computed by actuarial method; requirements; notice.

(1) Notwithstanding any other provision of ORS 83.510 to 83.680 and 83.820 to 83.895, a motor vehicle dealer, in a retail installment contract, may contract for and charge, receive and collect a finance charge computed by the actuarial method.

(2) When a retail installment contract provides for a finance charge computed by the actuarial method:

(a) The retail installment contract may provide for any other charge, cost or fee allowed under ORS 83.510 to 83.680 and 83.820 to 83.895, in addition to the finance charge.

(b) The amount to be disclosed as the finance charge and used as the finance charge component of the other amounts disclosed pursuant to ORS 83.510 to 83.680 and 83.820 to 83.895 shall be the amount of the finance charge to be paid assuming all payments are made exactly as agreed.

(c) The retail installment contract for the sale of a mobile home may provide that the holder may refuse to accept prepayments of less than the entire amount owed under the retail installment contract if the prepayments:

(A) Are tendered on dates other than a specified date each month; and

(B) Are not in amounts equal to the principal portion of one or more of the earliest unmatured monthly installments.

(d) The contract shall contain the following notice in printing or writing of a size equal to at least 10-point bold type, in lieu of the notice required by ORS 83.520 (2)(c):

NOTICE TO THE BUYER

Do not sign this contract before you read it or if it contains any blank space, except that:

(1) If delivery of the motor vehicle or mobile home is to be made to you after this contract is signed, the serial number or other identifying information and the due date of the first installment may be filled in at the time of delivery; and

(2) If the name of the financing agency is not known at the time the contract is executed, the name of the financing agency may be inserted in the contract on or about the date the name of the financing agency is known.

You are entitled to a copy of this contract.

You have the right to pay in advance the full amount due and if you do so you may save a portion of the finance charge.

(e) The refund credit provisions of ORS 83.620 shall not apply. [1981 c.910 §4; 1995 c.519 §5; 2001 c.117 §8]

83.580 Insurance. (1) The amount, if any, included for automobile insurance, shall not exceed the premiums chargeable in accordance with rate filings made by the insurer with the Director of the Department of Consumer and Business Services for such insurance.

(2) The amount, if any, included for life, health and accident or other insurance, other than automobile insurance, shall not exceed the premiums charged by the insurer.

(3) Except as provided in ORS 743.377, the motor vehicle dealer or financing agency, if an amount for automobile or other insurance on the motor vehicle is included in a retail installment contract, shall within 30 days after execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer of a motor vehicle under a retail installment contract shall have the privilege of purchasing such insurance from an insurance producer of the selection of the buyer and of selecting an insurance company acceptable to the motor vehicle dealer; provided, however, that the inclusion of the insurance premium in the retail installment contract when the buyer selects the insurance producer or company, shall be optional with the motor vehicle dealer and in such case the motor vehicle dealer or financing agency shall have no obligation to send, or cause to be sent, to the buyer the policy or certificate of insurance.

(4) If an insurance policy or certificate that was obtained for an amount included in the retail installment contract is canceled, the unearned insurance premium refund received by the holder of the contract shall be credited to the last maturing installments of the retail installment contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer or of the buyer and the holder of the contract. [1957 c.625 §6; 1967 c.359 §677; 2001 c.117 §9; 2003 c.364 §48]

83.590 Delinquency and collection charges. The holder of a retail installment contract, if the contract so provides, may collect a delinquency charge on each installment in default for a period of 10 days or longer. The delinquency charge for any installment shall not exceed five percent of the delinquent installment. In addition to the delinquency charge, the retail installment contract may provide for the payment of reasonable collection costs. The collection costs may include the payment of reasonable attorney fees, if the contract is referred to an attorney not a salaried employee of the holder of the contract for collection, plus the court costs and disbursements. [1957 c.625 §7; 1981 c.552 §1]

83.600 Schedule of payments; receipts. Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments made and the total amount unpaid on the contract. A buyer shall be given a written receipt for any payment when made in cash. [1957 c.625 §12]

83.610 Delivery to buyer of instrument indicating full payment; release of security. After the payment of all sums for which the buyer is obligated under a retail installment contract or other security agreement, as defined in ORS 79.0102, and upon written demand made by the buyer, the holder of such contract or agreement shall mail to the buyer at the buyer's last-known address, good and sufficient instruments to indicate payment in full and to release all security in the motor vehicle. This section is supplementary to and is not restrictive of ORS 86.440, 86.460 and 803.097 or of ORS chapter 79. [1957 c.625 §23; 1961 c.726 §400; 1983 c.338 §880; 1989 c.148 §5; 2001 c.445 §161]

83.620 Voluntary prepayment by buyer; refund. (1) Notwithstanding the provisions of a retail installment contract to the contrary, the buyer may pay in full at any time before maturity the obligation contained in the retail installment contract. Upon the premature payment, the buyer shall receive a refund credit. The amount of the refund credit shall not be less than the total finance charge to maturity provided for in the contract, less the greater of:

(a) Ten percent of the amount financed or $75, whichever is less; or

(b) Either of the following, at the discretion of the motor vehicle dealer or holder:

(A) The finance charge earned to the date of prepayment, computed by applying the effective rate on the contract to the actual principal balances outstanding, for the periods of time such balances were actually outstanding. In determining the effective rate, the holder may apply to the scheduled payments the actuarial method by which each scheduled payment is applied first to the accrued and unpaid finance charges and any amount remaining is applied to the reduction of the principal balance.

(B) The finance charge earned to the installment due date nearest the date of prepayment, computed by applying the effective rate on the contract to the actual principal balances outstanding, for the periods of time the balances were actually outstanding. For purposes of rebate computations under this subparagraph, the installment due date preceding the date of prepayment shall be considered to be nearest if prepayment occurs 15 days or less after that installment date. If prepayment occurs more than 15 days after the preceding installment due date, the next succeeding installment due date shall be considered to be nearest to the date of prepayment. In determining the effective rate, the holder may apply to the scheduled payments the actuarial method, by which each scheduled payment is applied first to the accrued and unpaid finance charges and any amount remaining is applied to reduction of the principal balance.

(2) When the amount of the credit for premature payment is less than $2, no refund need be made.

(3) This section does not prohibit the holder of a retail installment contract from collecting any charge, cost or fee under ORS 83.590. [1957 c.625 §24; 1977 c.692 §1; 1981 c.910 §2; 1983 c.432 §2; 2001 c.117 §10]

83.630 Extension of scheduled due date; deferment of scheduled payment; refinance charge. The holder of a retail installment contract, upon agreement with the buyer, may extend the scheduled due date or defer the scheduled payment of all or part of any installment or installments. In any such case, the holder may restate the amount of the installments and the time schedule therefor, and collect as a refinance charge for the extension or deferment, a flat service fee not to exceed $15 and a total additional charge on the balance being extended not exceeding an amount equal to one-twelfth of the annual percentage rate originally charged on the agreement for each month the payments on the agreement are being extended or deferred. [1957 c.625 §25; 1981 c.552 §2; 1995 c.519 §6]

83.635 Acceptance of retail installment contract by lender. If a retail installment contract for the purchase of a motor vehicle meets the requirements of ORS 83.510 to 83.680 and contains information required by federal law to be disclosed in a retail installment contract for the purchase of a motor vehicle, the retail installment contract shall be accepted for consideration by any lender, except for lenders licensed and regulated under the provisions of ORS chapter 725, to whom application for credit relating to the retail installment contract is made. [1995 c.519 §2]

83.650 Effect of negotiation of notes on rights against motor vehicle dealer. (1) No retail installment contract shall require or entail the execution, by the buyer, of any note or series of notes, which when separately negotiated will cut off as against third parties any right of action or defense which the buyer may have against the motor vehicle dealer.

(2) The rights of a holder in due course of any negotiable instrument executed contrary to subsection (1) of this section are not impaired by reason of the violation of subsection (1) of this section, but the buyer may bring an action against the motor vehicle dealer for the recovery of any loss or expense incurred by reason of the violation of subsection (1) of this section. The buyer's action may be joined with any other right of action the buyer has against the motor vehicle dealer arising out of the installment sale. The court may award

reasonable attorney fees to the prevailing party in an action under this section. [1957 c.625 §9; 1995 c.618 §47; 2001 c.117 §11]

83.660 Acceleration provision. No provision in a retail installment contract by which, in the absence of the buyer's default, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the time balance is enforceable. This section does not prohibit provisions in a retail installment contract accelerating any part or all of the time balance in the event of sale or transfer, or removal outside the state of the motor vehicle covered by the contract. [1957 c.625 §13]

83.670 Unenforceable contract provisions. (1) No provision in a retail installment contract for confession of judgment, power of attorney therefore, or wage assignment is enforceable.

(2) No provision in a retail installment contract that authorizes a motor vehicle dealer or holder of the contract or other person acting on the behalf of the motor vehicle dealer or holder to enter upon the buyer's premises unlawfully, or to commit any breach of the peace in the repossession of a motor vehicle is enforceable.

(3) No provision in a retail installment contract by which the buyer waives any right of action against the motor vehicle dealer or holder of the contract, or other person acting on the behalf of the motor vehicle dealer or holder, for any illegal act committed in the collection of payments under the contract or in the repossession of the motor vehicle is enforceable.

(4) No provision in a retail installment contract by which the buyer executes a power of attorney appointing the motor vehicle dealer or holder of the contract, or other person acting on the behalf of the motor vehicle dealer or holder, as the buyer's agent in collection of payments under the contract or in the repossession of the motor vehicle, is enforceable.

(5) No provision in a retail installment contract relieving the motor vehicle dealer from liability for any legal remedies that the buyer may have had against the motor vehicle dealer under the contract, or any separate instrument executed in connection therewith, is enforceable. [1957 c.625 §§14,15,16,17,18; 2001 c.117 §12]

83.680 Waiver of provisions of ORS 83.510 to 83.680. Any waiver of the provisions of ORS 83.510 to 83.680 shall be unenforceable and void. [1957 c.625 §28]

Miscellaneous

83.850 Definitions for ORS 83.850 and 83.860. As used in ORS 83.850 and 83.860:

(1) "Financing agency," "motor vehicle dealer," "retail lease," "retail lessee" and "retail lessor" have the meanings given those terms in ORS 83.510.

(2) "Goods" has the meaning for that term provided in ORS 83.010.

(3) "Motor vehicle" means a motor vehicle as defined in ORS 83.510 purchased primarily for personal, family or household purposes and not primarily for business or commercial purposes.

(4) A loan is made "in close connection with a sale of goods or motor vehicles" if:

(a) The lender directly or indirectly controls, is controlled by or is under common control with the seller or motor vehicle dealer, unless the relationship is remote and is not a factor in the transaction;

(b) The lender gives a commission, rebate or credit in any form to a seller or motor vehicle dealer who refers the borrower to the lender, other than payment of the proceeds of the loan jointly to the seller or motor vehicle dealer and the borrower;

(c) The lender is related to the seller or motor vehicle dealer by blood or marriage;

(d) The seller or motor vehicle dealer directly and materially assists the buyer in obtaining the loan;

(e) The seller or motor vehicle dealer prepares documents that are given to the lender and used in connection with the loan; or

(f) The lender supplies documents to the seller or motor vehicle dealer used by the consumer in obtaining the loan.

(5) A lease is made or funded "in close connection with a retail lease of a motor vehicle" if:

(a) The retail lessor or financing agency directly or indirectly controls, is controlled by or is under common control of the motor vehicle dealer supplying the vehicle to the retail lessee, unless the relationship is remote and is not a factor in the transaction;

(b) The retail lessor or financing agency gives a commission, rebate, financing reserve or credit in any form to a motor vehicle dealer who refers the retail lessee to the retail lessor or financing agency, other than payment of the proceeds of the lease;

(c) The retail lessor or financing agency is related to the motor vehicle dealer by blood or marriage;

(d) The motor vehicle dealer directly or materially assists the retail lessee in obtaining the lease;

(e) The motor vehicle dealer prepares documents that are given to the retail lessor or financing agency and used in connection with the lease; or

(f) The retail lessor or financing agency supplies documents to the motor vehicle dealer used by the retail lessee in obtaining the lease.

(6) Credit extended pursuant to a credit card issued by a lender is not a loan "in close connection with a sale of goods or motor vehicles" or a loan "in close connection with a retail lease of a motor vehicle" unless the credit card is issued contemporaneously with the extension of the credit. [1973 c.626 §1; 2001 c.117 §3]

83.860 Applicability of claims and defenses of borrower or lessee when loan made or lease funded in close connection with sale or retail lease. (1) If a lender makes a loan in close connection with the sale of goods or motor vehicles, the lender is subject to all claims and defenses of the borrower that the borrower as buyer has against the seller or motor vehicle dealer arising out of the sale, notwithstanding any agreement to the contrary. However, the lender's liability to the borrower shall not exceed the amount owing to the lender, exclusive of unearned interest, at the time the claim or defense is asserted.

(2) If a lender who makes a loan in close connection with a sale of goods or motor vehicles negotiates or assigns any note or other instrument taken as evidence of the obligation of the borrower, the holder of the note or other instrument shall be subject to the claims or defenses of the borrowers set forth in subsection (1) of this section. However, the liability of the holder of the note or other instrument to the borrower shall not exceed the amount owing to the lender exclusive of unearned interest at the time the claim or defense is asserted.

(3) If a financing agency makes or funds a lease in close connection with a retail lease of a motor vehicle, the financing agency is subject to all claims and defenses that the retail lessee has against the retail lessor arising out of the retail lease, notwithstanding any agreement to the contrary. However, the financing agency's liability to the retail lessee shall not exceed the amount owing to the financing agency, exclusive of unearned interest, at the time the claim or defense is asserted.

(4) If a financing agency that makes or funds a loan in close connection with a retail lease of a motor vehicle negotiates or assigns any note or other instrument taken as evidence of the obligation of the retail lessee, the holder of the note or other instrument shall be subject to the claims or defenses of a retail lessee set forth in subsection (3) of this section. However, the liability of the holder of the note or other instrument to a retail lessee shall not exceed the amount owing to the financing agency exclusive of unearned interest at the time the claim or defense is asserted. [1973 c.626 §2; 2001 c.117 §4]

83.875 Definitions for ORS 83.875, 83.880, 83.890 and 83.895. As used in ORS 83.875, 83.880, 83.890 and 83.895:

(1) "Goods" has the meaning for that term provided in ORS 83.010.

(2) "Motor vehicles" means a motor vehicle as defined in ORS 83.510, purchased primarily for personal, family or household purposes and not primarily for business or commercial purposes.

(3) "Retail charge agreement" has the meaning for that term provided by ORS 83.010, and includes a revolving charge agreement or charge agreement.

(4) "Retail installment contract" or "contract" means a retail installment contract for the sale of motor vehicles, goods or services.

(5) "Seller" includes a motor vehicle dealer as defined in ORS 83.510.

(6) "Services" has the meaning given that term in ORS 83.010. [1977 c.274 §5; 1981 c.910 §5; 2001 c.117 §15]

83.880 Sale of motor vehicles, goods or services as time sale rather than loan. A retail installment contract or retail charge agreement for the sale of motor vehicles, goods or services constitutes a bona fide time sale rather than a loan or a use of money; provided that if the contract covers motor vehicles, goods or services purchased primarily for personal, family or household use and not primarily for commercial or business use, the contract also clearly and specifically discloses both a cash price, using the term "cash price" or "cash sale price," and a deferred payment price, using the term "deferred payment price" or "time sale price," or if the agreement complies with ORS 83.80. This section shall apply notwithstanding that the contract is intended to be transferred, or is transferred, to a holder pursuant to a business relationship characterized by one or more of the following:

(1) All or any part of the seller's contracts are transferred to the holder;

(2) The holder provides contract forms to the seller and instructions for the use of the forms;

(3) The holder investigates the creditworthiness of the buyer before or after the sale;

(4) The price the holder pays the seller for the contract is more than, equal to, or less than that which the retail buyer has contracted to pay to the seller;

(5) The transfer to the holder takes place concurrently with or within a short time of the sale;

(6) The transfer is with or without recourse to the seller; or

(7) The seller purchases services or borrows money from the holder. [1977 c.274 §2; 1981 c.910 §6; 1987 c.674 §2]

83.885 Sale of motor vehicles, personal property or services for business or commercial purposes as time sale rather than loan. A retail installment contract for the sale of motor vehicles, other personal property or services purchased primarily for business or commercial purposes, which discloses both a cash price and a deferred payment or time price, constitutes a bona fide time sale rather than a loan or use of money, notwithstanding that the contract is intended to be transferred, or is transferred, to a holder pursuant to a business relationship however characterized. [1977 c.274 §6]

83.890 Notice required in contract when seller intends to transfer contract. (1) If the seller intends to transfer the retail installment contract to a holder, who has agreed with the seller to collect payments directly from the retail buyer, the contract shall contain the following notice which shall be in at least 8point type, or elite typewriter type, and be located on the same side of the page as the customer's signature:

_____

NOTICE: The seller intends to sell this contract to (insert name and mailing address of holder) which, if it buys the contract, will become the owner of the contract and your creditor. After the sale of this contract, all questions concerning either terms of the contract or payments should be directed to the buyer of the contract at the address indicated above.

_____

(2) If the contract is transferred to a holder other than the one identified in the notice, or is retained by the seller, the seller shall cause notice in writing of the name and address of the actual holder to be delivered to the retail buyer within 10 days of the decision. [1977 c.274 §3]

83.895 Effect of seller's failure to provide notice. Any seller who violates ORS 83.890 shall be subject to the provisions contained in ORS 83.170. [1977 c.274 §4]

Chapter 84

UNIFORM ELECTRONIC TRANSACTIONS ACT

84.004 Definitions for ORS 84.001 to 84.61. As used in ORS 84.001 to 84.061:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) "Contract" means the total legal obligation resulting from the parties' agreement under ORS 84.001 to 84.061 and other applicable law.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(7) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(8) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the in tent to sign the record.

(9) "Governmental agency" means an executive, legislative or judicial agency, department, board, commission, authority, institution or instrumentality of the federal government or of a state or of a county, municipality or other political subdivision of a state.

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases or the like.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying or processing information.

(12) "Person" means an individual, corporation, business trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. "Security procedure" includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe or band or an Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial or governmental affairs. [2001 c.535 §2; 2009 c.294 §10]

Chapter 87

STATUTORY LIENS

Possessory Chattel Liens

87.152 Possessory lien for labor or material expended on chattel; requirement for surety bond. (1) Except as provided in subsections (2) and (3) of this section, a person that makes, alters, repairs, transports, stores, pastures, cares for, provides services for, supplies materials for or performs labor on a chattel at the request of the owner or lawful possessor of the chattel has a lien on the chattel in the possession of the person for the reasonable or agreed charges for labor, materials or services of the person, and the person may retain possession of the chattel until the charges are paid.

(2)(a) Except as provided in subsection (3) of this section, a person may not create, attach, assert or claim a possessory lien on a motor vehicle, as defined in ORS 801.360, unless the person performs a service that complies with ORS 646A.480 to 646A.495 and that involves making, altering, repairing, transporting, storing, providing services for, supplying material for or performing labor in connection with the motor vehicle and the person:

(A) Is a franchised motor vehicle dealership, as defined in ORS 650.120 (5);

(B) Holds a towing business certificate that the Department of Transportation issued under ORS 822.205, provided that the person creates, attaches, asserts or claims a possessory lien only for transporting or storing the motor vehicle; or

(C) Creates, attaches, asserts or claims the lien against an abandoned motor vehicle.

(b) A person, other than a person that is described in paragraph (a)(A), (B) or (C) of this subsection, shall have in effect before making, altering, repairing, transporting, storing, performing services for, supplying materials for or performing labor in connection with a motor vehicle a valid surety bond in an amount not less than $20,000.

(3)(a) As used in this subsection:

(A) "Auction company" means an entity:

(i) That operates throughout the United States;

(ii) That holds a vehicle dealer certificate that the Department of Transportation issued or renewed under ORS 822.020 or 822.040, or a dismantler certificate that the department issued or renewed under ORS 822.110 or 822.125; and

(iii) The primary activity of which, in this state, consists of disposing of totaled motor vehicles.

(B) "Motor vehicle" has the meaning given that term in ORS 801.360.

(b) An auction company has a lien on a motor vehicle that the auction company possesses and stored on premises the auction company owns or controls. The auction company may title the motor vehicle in the name of:

(A) The auction company, if the motor vehicle has remained unclaimed on the auction company's premises for more than 30 days;

(B) The insurance company that directed the auction company to take possession of the motor vehicle; or

(C) An organization with an exemption from taxation under section 501(c)(3) of the Internal Revenue Code that directed the auction company to take possession of the motor vehicle.

(c) ORS 87.166 and 87.172 to 87.212 do not apply to chattel that is subject to this subsection.

(4)(a) The owner of a motor vehicle may bring an action to recover from a person that refuses, at the owner's demand and without a valid possessory lien created and attached as provided in subsection (2) or (3) of this section, to release the owner's motor vehicle or restore to the owner title to the owner's motor vehicle if the person changed the title:

(A) The greater of $2,000 or an amount equivalent to twice the value of the motor vehicle, up to a maximum amount of $20,000; and

(B) The owner's reasonable costs and attorney fees.

(b) In addition to the recovery described in paragraph (a) of this subsection, the owner may obtain:

(A) A judgment that:

(i) Directs the Department of Transportation to restore title to the motor vehicle to the owner and to invalidate the title the person obtained; or

(ii) Extinguishes the person's interest in the motor vehicle and directs the department to issue title in the name of the plaintiff in the action;

(B) A judgment that declares that the person's lien is invalid if the person obtained title to the motor vehicle without complying with this section; and

(C) Reimbursement for any fees the owner pays to the department to reissue the title. [1975 c.648 §3; 2018 c.58 §1; 2019 c.56 §§1,2; 2019 c.344 §1]

Note: The amendments to 87.152 by section 2, chapter 56, Oregon Laws 2019, become operative July 1, 2020. See section 4, chapter 56, Oregon Laws 2019. The text that is operative until July 1, 2020, including amendments by section 1, chapter 58, Oregon Laws 2018, section 1, chapter 56, Oregon Laws 2019, and section 1, chapter 344, Oregon Laws 2019, is set forth for the user's convenience.

87.152. (1) Except as provided in subsections (2) and (3) of this section, a person that makes, alters, repairs, transports, stores, pastures, cares for, provides services for, supplies materials for or performs labor on a chattel at the request of the owner or lawful possessor of the chattel has a lien on the chattel in the possession of the person for the reasonable or agreed charges for labor, materials or services of the person, and the person may retain possession of the chattel until the charges are paid.

(2) Except as provided in subsection (3) of this section, a person may not create, attach, assert or claim a possessory lien on a motor vehicle, as defined in ORS 801.360, unless the person performs a service that complies with ORS 646A.480 to 646A.495 and that involves making, altering, repairing, transporting, storing, providing services for, supplying material for or performing labor in connection with the motor vehicle and the person:

(a) Is a franchised motor vehicle dealership, as defined in ORS 650.120 (5);

(b) Holds a towing business certificate that the Department of Transportation issued under ORS 822.205, provided that the person creates, attaches, asserts or claims a possessory lien only for transporting or storing the motor vehicle; or

(c) Creates, attaches, asserts or claims the lien against an abandoned motor vehicle.

(3)(a) As used in this subsection:

(A) "Auction company" means an entity:

(i) That operates throughout the United States;

(ii) That holds a vehicle dealer certificate that the Department of Transportation issued or renewed under ORS 822.020 or 822.040, or a dismantler certificate that the department issued or renewed under ORS 822.110 or 822.125; and

(iii) The primary activity of which, in this state, consists of disposing of totaled motor vehicles.

(B) "Motor vehicle" has the meaning given that term in ORS 801.360.

(b) An auction company has a lien on a motor vehicle that the auction company possesses and stored on premises the auction company owns or controls. The auction company may title the motor vehicle in the name of:

(A) The auction company, if the motor vehicle has remained unclaimed on the auction company's premises for more than 30 days;

(B) The insurance company that directed the auction company to take possession of the motor vehicle; or

(C) An organization with an exemption from taxation under section 501(c)(3) of the Internal Revenue Code that directed the auction company to take possession of the motor vehicle.

(c) ORS 87.166 and 87.172 to 87.212 do not apply to chattel that is subject to this subsection.

(4)(a) The owner of a motor vehicle may bring an action to recover from a person that refuses, at the owner's demand and without a valid possessory lien created and attached as provided in subsection (2) or (3) of this section, to release the owner's motor vehicle or restore to the owner title to the owner's motor vehicle if the person changed the title:

(A) The greater of $2,000 or an amount equivalent to twice the value of the motor vehicle, up to a maximum amount of $20,000; and

(B) The owner's reasonable costs and attorney fees.

(b) In addition to the recovery described in paragraph (a) of this subsection, the owner may obtain:

(A) A judgment that:

(i) Directs the Department of Transportation to restore title to the motor vehicle to the owner and to invalidate the title the person obtained; or

(ii) Extinguishes the person's interest in the motor vehicle and directs the department to issue title in the name of the plaintiff in the action;

(B) A judgment that declares that the person's lien is invalid if the person obtained title to the motor vehicle without complying with this section; and

(C) Reimbursement for any fees the owner pays to the department to reissue the title.

87.156 Innkeeper's lien. (1) Except as provided in subsection (2) of this section, the keeper of an inn, hotel or motel has a lien on the chattels brought into the inn, hotel or motel belonging to or under the control of a guest or boarder for the reasonable or agreed charges due the keeper from the guest or boarder for accommodation, board and lodging, services, money, labor and materials furnished at the request of the guest or boarder by the keeper. The keeper may retain possession of the chattels until those charges are paid.

(2)(a) The keeper may not retain prescription or nonprescription medications, medical

equipment or apparatus, food or children's clothing or accessories after the guest or boarder requests return of the property.

(b) If the keeper retains property in violation of this subsection, the keeper waives any claim to unpaid charges against the guest or boarder.

(c) In any action brought by the guest or boarder to compel the return of the property or to recover damages based on its retention, the prevailing party may recover attorney fees. [1975 c.648 §4; 1989 c.590 §2; 2009 c.599 §16]

87.159 Lien for care of impounded animal; petition for hearing to contest impoundment and lien; court order; waiver.

(1) A person who, or governmental agency that, transports, pastures, feeds, cares for or provides treatment to an animal that has been impounded under ORS 167.345 has a lien on the animal in the possession of the person or governmental agency for the reasonable charges for transportation, pasturage, feed, care or treatment provided by the person or governmental agency, and the person or governmental agency may retain possession of the animal until those charges are paid.

(2)(a) Within 30 days of impoundment of any animal or animals as is authorized under ORS 167.345, any person who has an ownership interest in any impounded animal may file a written petition, verified under oath, demanding a hearing before the circuit court. The petition shall specifically identify the petitioner's ownership interest in the animal or animals. The petition shall further specifically articulate the petitioner's challenge to the probable cause justifying the impoundment that resulted in the lien attaching under subsection (1) of this section or the amount of the charges associated with that lien. The petitioner shall serve a true copy of the petition on the lien holder, the peace officer who impounded the animals and the district attorney, who shall be captioned as the respondents.

(b) Upon receipt of a petition in compliance with this subsection, the circuit court shall hold the hearing within 14 days, or as soon as practicable, wherein the respondents shall demonstrate by a preponderance of the evidence that impoundment of the animal was based on probable cause and that the lien amount claimed accurately reflects the reasonable charges authorized and accruing under subsection (1) of this section.

(c) If the court finds that impoundment of an animal under ORS 167.345 was:

(A) Based on probable cause and that the lien amount accurately reflects the reasonable charges authorized and accruing under subsection (1) of this section, then the court shall deny the petition, award reasonable attorney fees to the respondents and direct the foreclosure to proceed.

(B) Based on probable cause but that the lien amount does not accurately reflect the reasonable charges authorized and accruing under subsection (1) of this section, then the court shall enter an order modifying the lien amount to accurately state the reasonable charges authorized and accruing under subsection (1) of this section, award reasonable attorney fees to the respondents and direct the foreclosure to proceed.

(C) Without probable cause, then the court may enter an order striking the lien created under subsection (1) of this section and may, but only if a final judgment is entered in the defendant's favor in the criminal case related to the impoundment under ORS 167.345, order an impounded animal returned to its lawful owner. To prevent the lawful owner or any other claimant from being unjustly enriched while having been relieved of the duty to provide an impounded animal with minimum care, any court order directing return of an impounded animal shall include an award to the respondents of the full costs of providing care to the animal.

(d) A person's failure to file a written petition within 30 days of impoundment of an animal or animals shall constitute a waiver of the right to file a petition under this subsection and the foreclosure shall proceed without judicial review in the manner provided in ORS 87.172 to 87.212. The court may extend the 30-day period to file a written petition by an additional 15 days only if the petitioner did not have actual notice of the impoundment and the court makes findings, on the record and in writing, that there are exceptional and compelling circumstances justifying the extension. [1989 c.349 §2; 2013 c.719 §9]

87.156 Innkeeper's lien. (1) Except as provided in subsection (2) of this section, the keeper of an inn, hotel or motel has a lien on the chattels brought into the inn, hotel or motel belonging to or under the control of a guest or boarder for the reasonable or agreed charges due the keeper from the guest or boarder for accommodation, board and lodging, services, money, labor and materials furnished at the request of the guest or boarder by the keeper. The keeper may retain possession of the chattels until those charges are paid.

(2)(a) The keeper may not retain prescription or nonprescription medications, medical equipment or apparatus, food or children's clothing or accessories after the guest or boarder requests return of the property.

(b) If the keeper retains property in violation of this subsection, the keeper waives any claim to unpaid charges against the guest or boarder.

(c) In any action brought by the guest or boarder to compel the return of the property or to recover damages based on its retention, the prevailing party may recover attorney fees. [1975 c.648 §4; 1989 c.590 §2; 2009 c.599 §16]

87.162 Landlord's lien. Except as provided in ORS 87.156 and 90.120, a landlord has a lien on all chattels, except wearing apparel as defined in ORS 18.345 (1), owned by a tenant or occupant legally responsible for rent, brought upon the leased premises, to secure the payment of rent and such advances as are made on behalf of the tenant. The landlord may retain the chattels until the amount of rent and advances is paid. [1975 c.648 §5; 1981 c.258 §1; 1997 c.374 §8]

87.166 Attachment of liens. (1) Except as provided in subsection (2) of this section, the liens created by ORS 87.152 to 87.162 attach to the chattels described in those sections when:

(a) The services or labor are performed or the materials or money are furnished by the lien claimant to the lien debtor; and

(b) The charges for the services or labor performed and materials or money furnished are due and the lien debtor either knows or should reasonably know that the charges are due.

(2) The lien created by ORS 87.162 attaches to the chattels described in that section on the 20th day after rents or advances occur or attaches when the occupant or tenant attempts to remove the chattels from the premises while there are unpaid rents or advances. A person claiming a lien under ORS 87.162 may take the chattels subject to that lien into the possession of the person when the lien attaches or at any time thereafter. [1975 c.648 §6]

87.172 Time period before foreclosure allowed. (1) Except as otherwise provided in this section, a person claiming a lien under ORS 87.152 to 87.162 must retain the chattel that is subject to the lien for at least 60 days after the lien attaches to the chattel before foreclosing the lien.

(2) Except as otherwise provided in this subsection, a person claiming a lien under ORS 87.152 for cost of care, materials and services bestowed on an animal must retain the animal for at least 30 days after the lien attaches to the animal before foreclosing the lien. If the lien is for veterinary services to a domestic animal, the person must retain the animal for at least five days after the lien attaches to the animal before foreclosing the lien. As used in this subsection, "domestic animal" means an animal that is not livestock as defined in ORS 72.1030 and for which the veterinary services were requested by an owner or other person with apparent authority regarding care of the animal.

(3) A person claiming a lien under ORS 87.152 for the cost of removing, towing or storage of a vehicle that is appraised by a person who holds a certificate issued under ORS 819.480 to have a value of:

(a) $1,000 or less but more than $500, must retain the vehicle at least 30 days after the lien attaches to the vehicle before foreclosing the lien.

(b) $500 or less, must retain the vehicle at least 15 days after the lien attaches to the vehicle before foreclosing the lien. [1975 c.648 §7; 1979 c.401 §1; 1981 c.861 §1; 1983 c.338 §881; 1993 c.326 §9; 1995 c.758 §18; 2005 c.738 §7; 2011 c.399 §2]

87.176 Fees for storage of chattel; notice to lien debtor; effect of failure to comply. (1) When the lien claimed under ORS 87.152 to 87.162 is for other than the storage of a chattel, if the lien claimant incurs expenses in storing the chattel prior to foreclosure, the lien claimant may charge reasonable fees for the storage of the chattel for a period not exceeding six months from the date that the lien attaches to the chattel. A lien claimant seeking to recover storage fees for storage expenses incurred prior to foreclosure shall send a written notice, within 20 days from the date that the storage fees began to accrue, to the lien debtor and every other person that requires notification under ORS 87.196. The claimant shall transmit the notice by certified mail. A person notified under ORS 87.196 need not receive the notice within the 20-day period, but within a reasonable time. If the lien claimant fails to comply with the notice requirements of this subsection, the lien claimant is limited to recovering reasonable fees for the storage of the chattel prior to foreclosure for a period of time not exceeding 20 days from the date that the lien attached to the chattel.

(2) When the lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel, the lien claimant shall send a written notice stating that storage fees are accruing, within 20 days after the chattel has been placed in storage, to the lien debtor and every other person that requires notification under ORS 87.196. The claimant shall transmit the notice by certified mail. A person notified under ORS 87.196 need not receive the notice within the 20-day period, but within a reasonable time. If the claimant fails to comply with the notice requirements of this subsection, the amount of the claimant's lien shall be limited to a sum equal to the reasonable storage expenses incurred within the 20-day period. [1975 c.648 §8; 1993 c.385 §1]

87.177 Bond or deposit of money for lien for storage of chattel; amount; notice to lien claimant; filing affidavit with county officer. (1) When a lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel and the amount of the lien claimed is $750 or more, the lien debtor, or any other interested person, may file with the recording officer of the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor a bond executed by a corporation authorized to issue surety bonds in the State of Oregon to the effect that the principal or principals on the bond shall pay the amount of the claim and all costs and attorney fees that are awarded against the chattel on account of the lien. The bond shall be

in an amount not less than 200 percent of the amount claimed under the lien for the storage of the chattel.

(2)(a) In lieu of the surety bond provided for in subsection (1) of this section, when a lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel and the amount of the lien claimed is $750 or more, the lien debtor, or any other interested person, may deposit with the treasurer of the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor a sum of money or its equivalent equal in value to 200 percent of the amount claimed under the lien for the storage of the chattel.

(b) The court in which any proceeding to foreclose the lien for the storage of the chattel may be brought may, upon notice and upon motion by a person who makes a deposit under paragraph (a) of this subsection, order the money invested in such manner as the court may direct. A person who makes a deposit under paragraph (a) of this subsection shall be entitled to any income from the investments and the treasurer of the county shall pay the income when received to the depositor without order.

(3) A bond or money may be filed or deposited under subsection (1) or (2) of this section at any time after a lien for the storage of a chattel is claimed under ORS 87.152 to 87.162 and the amount of the lien claimed is $750 or more.

(4) A person who files a bond or deposits money under subsections (1) to (3) of this section shall cause to be served upon the lien claimant a notice of the filing or deposit. If the person files a bond, the notice shall include a copy of the bond. The notice shall be filed not later than 20 days after the filing or deposit and shall state the location and time of the filing or deposit.

(5) If a person does not notify the lien claimant as required by subsection (4) of this section, the filing of the bond or the deposit of money is of no effect and the provisions of subsections (1) to (3) of this section do not apply in a suit to foreclose the lien for which the filing or deposit is made.

(6) When a person files a bond with the recording officer of a county under subsections (1) to (3) of this section and serves notice of the filing upon the lien claimant under subsections (4) and (5) of this section, the person shall file with the same recording officer an affidavit stating that the notice was served.

(7) When a person deposits money with the treasurer of a county under subsections

(1) to (3) of this section and serves notice of the deposit upon the lien claimant under subsections (4) and (5) of this section, the person shall file with the recording officer of the same county an affidavit stating that the deposit was made and notice was served. [2003 c.193 §§2,3,4]

Note: 87.177 to 87.181 were added to and made a part of 87.152 to 87.212 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

87.178 Foreclosure after filing of bond or deposit of money; effect of filing or deposit; disposition of bond or money. (1) When a lien claimed under ORS 87.152 to 87.162 is for the storage of a chattel and the amount of the lien claimed is $750 or more, any suit to foreclose the lien that is commenced or pending after the filing of a bond or deposit of money under ORS 87.177 (1) to

(3) shall proceed as if no filing or deposit had been made except that the lien shall attach to the bond or money upon the filing or deposit and the service of notice of the filing or deposit upon the lien claimant. The chattel described in the claim of lien shall thereafter be entirely free of the lien and shall in no way be involved in subsequent proceedings.

(2) When a bond is filed or money is deposited and, in a suit to enforce the lien for which the filing or deposit is made, the court allows the lien, the lien shall be satisfied out of the bond or money. The court shall include as part of its judgment an order for the return to the person who deposited the money of any amount remaining after the lien for the storage of the chattel is satisfied.

(3) When a bond is filed or money is deposited and, in a suit to enforce the lien for which the filing or deposit is made, the court disallows the lien, the court shall include as part of its judgment an order for the return of the bond or money to the person who filed the bond or deposited the money. [2003 c.193 §5]

Note: See note under 87.177.

87.179 Determination of adequacy of bond. (1) If a lien claimant considers the bond filed with a recording officer of a county under ORS 87.177 (1) to (3) inadequate to protect the claim of the lien claimant for some reason other than the amount of the bond, the lien claimant may petition the court in which the suit to foreclose the lien for the storage of the chattel may be brought for a determination of the adequacy of the bond. The petition must be filed within 10 days of receipt of the notice of the filing of the bond under ORS 87.177 (4) and (5). The petition must describe in detail the reasons for the inadequacy.

(2) Not later than two days after the filing of the petition with the court, the lien claimant shall send a notice of the filing and a copy of the petition by registered or certified mail to the person who filed the bond. After a hearing, if the court determines that the bond is inadequate for one or more of the reasons described by the lien claimant, the court shall order such action as shall make the bond adequate to protect the claim of lien. [2003 c.193 §6]

Note: See note under 87.177.

87.181 Release of lien or return of money. The county recording officer shall record a written release of the lien for the storage of the chattel or the county treasurer in whose office money is deposited under ORS 87.177 (1) to (3) shall return the money to the person who made the deposit when:

(1) The person who filed the bond or deposited the money presents a certified copy of a court's order for the release of the bond or all or some of the money to that person; or

(2) The person who filed the bond or deposited the money presents a written release of lien signed by the lien claimant. [2003 c.193 §7]

Note: See note under 87.177.

87.182 Effect of prior security interest on method of foreclosure. (1) When a lien created by ORS 87.162 is subordinate to a prior duly perfected security interest in a chattel as provided in ORS 87.146, the lien created by ORS 87.162 shall be foreclosed by suit as provided in ORS chapter 88.

(2) Except as provided in subsection (1) of this section, liens created by ORS 87.152 to 87.162 may be foreclosed by suit as provided in ORS chapter 88, or by sale of the chattel subject to the lien at public auction to the highest bidder for cash. [1975 c.648 §9]

87.186 Location of foreclosure sale. Foreclosure of liens created by ORS 87.152 to 87.162 by public sale shall occur in the county in which the lien claimant obtained possession of the chattel subject to the lien from the lien debtor. [1975 c.648 §11]

87.192 Notice of foreclosure sale to lien debtor; public notice. (1)(a) Before a lien claimant forecloses by sale a lien created under ORS 87.152 to 87.162, the lien claimant shall give notice of the foreclosure sale to the lien debtor by first class mail with certificate of mailing, registered mail or certified mail sent to the lien debtor at the lien debtor's last-known address. The lien claimant shall give notice of the foreclosure sale to the lien debtor:

(A) Except as otherwise provided in this paragraph, at least 30 days before the foreclosure sale.

(B) If the lien is for the cost of removing, towing or storing a vehicle that a person who holds a certificate issued under ORS 819.480 has appraised at a value of $1,000 or less, at least 15 days before the foreclosure sale.

(b) If the chattel to be sold at a foreclosure sale is chattel for which the Department of Transportation has issued a certificate of title under ORS 803.045, for which the State Marine Board requires a certificate of title under ORS 830.810 or for which the Oregon Department of Aviation requires a certificate of registration under ORS 837.040, the lien claimant shall include with the notice described in paragraph (a) of this subsection a copy of an invoice, work or repair order, authorization for towing, official form that authorizes a law enforcement agency to impound the chattel or any other record or document that is evidence of the basis for the lien.

(c) If a lien claimant fails to give notice in accordance with this subsection to a lien debtor concerning chattel described in paragraph (b) of this subsection, the lien claimant is liable to the lien debtor for a sum equal to the fair market value of the chattel sold at the foreclosure sale. The lien debtor may bring an action to recover the sum and reasonable attorney fees.

(2) The lien claimant shall give public notice of the foreclosure sale by posting notice of the foreclosure sale in a public place at or near the front door of the county courthouse of the county in which the sale is to be held and, except as provided in paragraph (b) of this subsection, in a public place at the location where the lien claimant obtained possession of the chattel to be sold from the lien debtor. The following apply to notice under this subsection:

(a) The lien claimant shall give notice under this subsection not later than the time required for notice to a lien debtor under subsection (1) of this section.

(b) This subsection does not require the lien claimant to post notice at the location where the lien claimant obtained the chattel if the chattel is a chattel for which the Department of Transportation has issued a certificate of title under ORS 803.045, for which the State Marine Board requires a certificate of title under ORS 830.810 or for which the Oregon Department of Aviation requires a certificate of registration under ORS 837.040.

(3) If the chattel to be sold at a foreclosure sale is something other than an abandoned vehicle and has a fair market value of $1,000 or more, or if the chattel to be sold is an abandoned vehicle and has a fair market value of $2,500 or more, the lien claimant, in addition to the notice required by subsection

(2) of this section, shall have a notice of foreclosure sale printed once a week for two successive weeks in a daily or weekly newspaper, as defined in ORS 193.010, published in the county in which the sale is held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the sale is held.

(4) The notice of foreclosure sale required under this section must contain a particular description of the property to be sold, the name of the owner or reputed owner of the property, the amount due on the lien, the time and the place of the sale and the name of the person foreclosing the lien. [1975 c.648 §10; 1981 c.861 §2; 1983 c.436 §1; 1983 c.338 §882; 1993 c.326 §10; 1995 c.758 §19; 2005 c.738 §8; 2014 c.65 §1]

87.196 Notice of foreclosure sale to secured parties; effect of notice; effect of failure to give notice. (1)(a) A lien claimant that forecloses by sale a lien created under ORS 87.152 to 87.162 shall give notice of the foreclosure sale by first class, registered or certified mail. The following apply:

(A) The lien claimant shall give notice to all persons that have filed a financing statement in the office of the Secretary of State, or in the office of the appropriate county officer of the county in which the sale is held, to perfect a security interest in the chattel to be sold.

(B) Notwithstanding subparagraph (A) of this paragraph, if the chattel to be sold at the foreclosure sale is a chattel, other than part of the motor vehicle inventory of a dealer issued a vehicle dealer certificate under ORS 822.020, for which the Department of Transportation has issued a certificate of title under ORS 803.045, for which the State Marine Board requires a certificate of title under ORS 830.810 or for which the Oregon Department of Aviation requires a certificate of registration under ORS 837.040, the lien claimant needs to give notice only to persons that the certificate of title or certificate of registration indicates have a security interest or lien in the chattel.

(C) The lien claimant shall give notice under this paragraph at least 30 days before the foreclosure sale, but if the lien claimant claims a lien under ORS 87.152, the lien claimant shall give the notice required by this subsection:

(i) Not later than the 20th day after the date on which the storage charges begin;

(ii) Not later than the 30th day after the date on which the services provided are completed, if no storage charges are imposed; or

(iii) At least 15 days before the foreclosure sale if the lien is for the cost of removing, towing or storing a vehicle that a person who holds a certificate issued under ORS 819.480 has appraised at a value of $1,000 or less.

(b) A lien claimant that gives notice of a foreclosure sale for chattel described in paragraph (a)(B) of this subsection shall include with the notice a copy of an invoice, work or repair order, authorization for towing, official form that authorizes a law enforcement agency to impound the chattel or any other record or document that is evidence of the basis for the lien.

(2) A person who is entitled to receive notice under subsection (1) of this section may discharge the lien and preserve the person's security interest in the chattel by paying the lien claimant the amount of the lien claim and reasonable expenses the lien claimant actually incurs in foreclosing the lien claim. If the person does not discharge the lien before the day of the foreclosure sale, the foreclosure sale extinguishes the person's security interest in the chattel even if the person does not receive notice under subsection (1) of this section.

(3) If a lien claimant does not give notice in accordance with subsection (1) of this section to a person that claims a security interest or lien on the chattel sold at a foreclosure sale, the lien claimant is liable to the person for a sum equal to the fair market value of the chattel sold at the foreclosure sale or the amount due to the person under the security agreement or lien at the time of the foreclosure sale, whichever amount is less. The secured party or other lien claim ant may recover the sum and reasonable attorney fees by an action at law. [1975 c.648 §14; 1981 c.861 §3; 1983 c.338 §883; 1993 c.326 §11; 1995 c.758 §20; 2005 c.86 §1; 2005 c.738 §9; 2014 c.65 §2; 2017 c.17 §3]

87.202 Statement of account of foreclosure sale. (1) A person that forecloses a lien created under ORS 87.152 to 87.162 by sale shall file a statement of account that the person verifies by oath with the recording officer of the county in which the sale took place if:

(a) The chattel sold at the foreclosure sale has a fair market value of $1,000 or more; or

(b) The chattel sold at the foreclosure sale is an animal that bears a brand or other mark recorded with the State Department of Agriculture under ORS chapter 604.

(2) The statement of account required under subsection (1) of this section must show:

(a) The amount of the lien claim and the cost of foreclosing the lien;

(b) A copy of the published or posted notice of foreclosure sale;

(c) The amount received for the chattel sold at the sale; and

(d) The name of each person that received proceeds from the foreclosure sale as described in ORS 87.206 and the amount each person received.

(3) A person that files a statement of account under this section shall send a copy of the statement by registered or certified mail to the last-known address of the owner of the chattel sold at the foreclosure sale. If the chattel sold at a foreclosure sale is an animal that bears a brand or other mark recorded with the State Department of Agriculture under ORS chapter 604, a person that files a statement of account under this section shall send a copy of the statement to the State Department of Agriculture. [1975 c.648 §13; 2005 c.86 §2; 2013 c.206 §1]

87.206 Disposition of proceeds of foreclosure sale. (1) The proceeds of a sale to foreclose a lien created by ORS 87.152 to 87.162 shall be applied in the following order:

(a) To the payment of the reasonable and necessary expenses of the sale;

(b) To satisfy the indebtedness secured by the lien under which the sale is made;

(c) Subject to subsection (2) of this section, to satisfy the indebtedness secured by any subordinate lien or security interest, in order of priority, in the chattel; and

(d) To the treasurer of the county in which the foreclosure sale is made. The payment to the treasurer must be accompanied by a copy of the statement of account described in ORS 87.202.

(2) Proceeds may be applied under subsection (1)(c) of this section if the person who forecloses a lien created by ORS 87.152 to 87.162 by sale receives a written request for proceeds from the holder of any subordinate lien or security interest before the day of the foreclosure sale. The person foreclosing the lien may require the holder of the subordinate lien or security interest to furnish reasonable proof of the existence of the security interest or lien. If the person foreclosing the lien does not receive proof of the existence of the subordinate security interest or lien, the person is not required to apply proceeds of the sale to satisfy the indebtedness secured by the subordinate security interest or lien.

(3) If a county treasurer receives proceeds under subsection (1) of this section, the county treasurer shall credit the proceeds to the general revenue fund of the county, subject to the right of the lien debtor or the representative of the lien debtor, to reclaim the proceeds at any time within three years of the date of deposit with the treasurer. If the proceeds are not demanded and claimed within the three-year period, the proceeds become the property of the county. [1975 c.648 §12; 2005 c.86 §3]

87.212 Liability for improper sale of fungible chattels. A person claiming a lien under ORS 87.152 to 87.162 for the storage of fungible chattels shall not sell more of those chattels than is necessary to pay charges due that person for the storage. If a person unnecessarily sells fungible chattels without the consent of the owner thereof, the person shall, for each offense, forfeit to the owner of the chattels a sum equal to the fair market value of the chattels unnecessarily sold and 50 percent of the fair market value in addition as a penalty. The owner shall recover such value and penalty by an action at law. [1975 c.648 §15]

Nonpossessory Chattel Liens

87.216 Nonpossessory lien for labor or material expended on chattel. A person who makes, alters, repairs, transports, stores, provides services for or performs labor on a chattel at the request of the owner of the chattel has a lien on that chattel for the reasonable or agreed charges for the labor or services the person performs and for the materials the person furnishes in connection therewith. [1975 c.648 §16]

Chapter 97

ANATOMICAL GIFTS

97.951 Short title. ORS 97.951 to 97.982 may be cited as the Revised Uniform Anatomical Gift Act. [2007 c.681 §1]

Note: 97.951 to 97.982 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 97 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

97.953 Definitions for ORS 97.951 to 97.982. As used in ORS 97.951 to 97.982:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agent" means:

(a) A health care representative or an alternate health care representative appointed under ORS 127.510; or

(b) An individual expressly authorized to make an anatomical gift on the principal's behalf by any record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research or education.

(4) "Body part" means an organ, an eye or tissue of a human being. The term does not include the whole body.

(5) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift, and includes a stillborn infant or a fetus.

(6) (a) "Disinterested witness" means a witness other than:

(A) A spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift; or

(B) An adult who exhibited special care and concern for the individual.

(b) "Disinterested witness" does not include a person to whom an anatomical gift could pass under ORS 97.969.

(7) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement, symbol or designation on a driver license, identification card or donor registry.

(8) "Donor" means an individual whose body or body part is the subject of an anatomical gift.

(9) "Donor registry" means a centralized database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(10) "Driver license" means a license or permit issued under ORS 807.021, 807.040, 807.200,

807.280 or 807.730, regardless of whether conditions are attached to the license or permit.

(11) "Eye bank" means an organization licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.

(12) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. "Guardian" does not include a guardian ad litem.

(13) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state.

(14) "Identification card" means the card issued under ORS 807.021, 807.400 or 807.730, or a comparable provision of the motor vehicle laws of another state.

(15) "Know" means to have actual knowledge.

(16) "Minor" means an individual who is under 18 years of age.

(17) "Organ procurement organization" means an organization designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(18) "Parent" means a parent whose parental rights have not been terminated.

(19) "Physician" means an individual authorized to practice medicine under the law of any state.

(20) "Procurement organization" means an eye bank, organ procurement organization or tissue bank.

(21) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research or education. The term does not include an individual who has made a refusal.

(22) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(23) "Recipient" means an individual into whose body a decedent's body part has been or is intended to be transplanted.

(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Refusal" means a record that expressly states an intent to prohibit other persons from making an anatomical gift of an individual's body or body part.

(26) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

(27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(28) "Technician" means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator.

(29) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(30) "Tissue bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

(31) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients. [2007 c.681 §2; 2008 c.1 §33; 2017 c.409 §2; 2018 c.36 §24]

Note: The amendments to 97.953 by section 15, chapter 701, Oregon Laws 2019, become operative January 1, 2021, and apply to driver licenses, driver permits and identification cards issued, renewed or replaced on or after January 1, 2021. See sections 25 and 26, chapter 701, Oregon Laws 2019. The text that is operative on and after January 1, 2021, is set forth for the user's convenience.

97.953. As used in ORS 97.951 to 97.982:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agent" means:

(a) A health care representative or an alternate health care representative appointed under ORS 127.510; or

(b) An individual expressly authorized to make an anatomical gift on the principal's behalf by any record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research or education.

(4) "Body part" means an organ, an eye or tissue of a human being. The term does not include the whole body.

(5) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift, and includes a stillborn infant or a fetus.

(6)(a) "Disinterested witness" means a witness other than:

(A) A spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift; or

(B) An adult who exhibited special care and concern for the individual.

(b) "Disinterested witness" does not include a person to whom an anatomical gift could pass under ORS 97.969.

(7) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement, symbol or designation on a driver license, identification card or donor registry.

(8) "Donor" means an individual whose body or body part is the subject of an anatomical gift.

(9) "Donor registry" means a centralized database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(10) "Driver license" means a license or permit issued under ORS 807.040, 807.200, 807.280 or 807.730, regardless of whether conditions are attached to the license or permit.

(11) "Eye bank" means an organization licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.

(12) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. "Guardian" does not include a guardian ad litem.

(13) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state.

(14) "Identification card" means the card issued under ORS 807.400 or 807.730, or a comparable provision of the motor vehicle laws of another state.

(15) "Know" means to have actual knowledge.

(16) "Minor" means an individual who is under 18 years of age.

(17) "Organ procurement organization" means an organization designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(18) "Parent" means a parent whose parental rights have not been terminated.

(19) "Physician" means an individual authorized to practice medicine under the law of any state.

(20) "Procurement organization" means an eye bank, organ procurement organization or tissue bank.

(21) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research or education. The term does not include an individual who has made a refusal.

(22) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(23) "Recipient" means an individual into whose body a decedent's body part has been or is intended to be transplanted.

(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Refusal" means a record that expressly states an intent to prohibit other persons from making an anatomical gift of an individual's body or body part.

(26) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

(27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(28) "Technician" means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator.

(29) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(30) "Tissue bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

(31) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

Note: See note under 97.951.

97.955 Purpose of anatomical gift; persons authorized to make gift. (1) Subject to ORS 97.963, a donor may make an anatomical gift of a donor's body or body part during the life of the donor for the purpose of transplantation, therapy, research or education.

(2) An anatomical gift may be made in the manner provided in ORS 97.957 by:

(a) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under ORS 807.280 to apply for an instruction driver permit because the donor is at least 15 years of age;

(b) An agent of the donor, unless the form appointing a health care representative, as defined in ORS 127.505, or other record prohibits the agent from making an anatomical gift;

(c) A parent of the donor, if the donor is an unemancipated minor; or

(d) The donor's guardian. [2007 c.681 §3; 2018 c.36 §25]

Note: See note under 97.951.

97.957 Methods of making anatomical gift before death of donor. (1) A donor may make an anatomical gift:

(a) By a designation on the donor's driver license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness;

(d) By a donor card or other record signed by the donor or other person making the gift; or

(e) By authorizing that a statement, symbol or designation indicating that the donor has made an anatomical gift is to be included on a donor registry.

(2) If the donor or other person authorized to make an anatomical gift under ORS 97.955 is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.

(3) Revocation, suspension, expiration or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

(5) An anatomical gift made by a designation on the donor's driver license or identification card is conclusively presumed valid. [2007 c.681 §4; 2009 c.106 §1]

Note: See note under 97.951.

97.959 Revocation or amendment of anatomical gift by donor or agent or guardian of donor. (1) Except as provided in subsection (7) or (8) of this section, an anatomical gift made under ORS 97.957 may be amended or revoked only by the donor in accordance with the provisions of this section and may not be amended or revoked by any other person otherwise authorized to make, amend or revoke a gift under ORS 97.963 or 97.967.

(2) A donor or other person authorized to amend or revoke an anatomical gift under subsection (7) or (8) of this section may amend or revoke an anatomical gift by:

(a) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (3) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(3) A record signed pursuant to subsection (2)(a)(C) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as required in this subsection.

(4) A donor or other person authorized to revoke an anatomical gift under subsection

(7) or (8) of this section may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(5) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(6) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (4) of this section.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or body part.

(8) An agent or guardian of a donor may amend or revoke an anatomical gift only if:

(a) The agent or guardian made the gift under ORS 97.955 (2)(b) or (d); or

(b) The form appointing a health care representative, as defined in ORS 127.505, or other record appointing the agent expressly authorizes the agent to amend or revoke anatomical gifts. [2007 c.681 §5; 2009 c.106 §2; 2011 c.61 §1; 2018 c.36 §26]

Note: See note under 97.951.

97.972 Rights and duties of procurement organizations and others; authorized examinations. (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Transportation and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the Department of Transportation to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a body part that is or could be the subject of an anatomical gift for transplantation, therapy, research or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the body part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4)(a) Unless otherwise prohibited by law, at any time after a donor's death, the person to whom a body part passes under ORS 97.969 may conduct any reasonable examination necessary

to ensure the medical suitability of the body or body part for its intended purpose.

(b) A transplant hospital may not deny a recipient from receiving an anatomical gift exclusively on the basis that the recipient is a registry identification cardholder as defined in ORS 475B.791.

(5) Unless otherwise prohibited by law, an examination under subsection (3) or (4)(a) of this section may include an examination of all medical and dental records of the do nor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in ORS 97.965 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to ORS 97.969 (9) and 97.980, the rights of the person to whom a body part passes under ORS 97.969 are superior to the rights of all others with respect to the body part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and ORS 97.951 to 97.982, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation and use of remains in a funeral service. If the gift is of a body part, the person to whom the body part passes under ORS 97.969, upon the death of the donor and before embalming, burial or cremation, shall cause the body part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a body part from the decedent.

(10) A physician or technician may remove from the body of a donor a donated body part that the physician or technician is qualified to remove. [2007 c.681 §13; subsection (4)(b) of 2015 Edition enacted as 2015 c.844 §8]

Note: See note under 97.951.

97.977 Donor registry; duty of Department of Transportation to cooperate with donor registry. (1)(a) The Oregon Health Authority may allow an organ procurement organization to establish a donor registry.

(b) Only one donor registry may be established within this state.

(c) The donor registry shall comply with subsections (3) and (4) of this section.

(2) The Department of Transportation shall:

(a) Cooperate with a person who administers the donor registry established under subsection (1) of this section for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amending or revoking an anatomical gift.

(b) When requested by the organ procurement organization that has established the donor registry in this state, the department shall electronically transfer to the organ procurement organization the name, address, birth date and donor designation listed on the driver license or identification card of a person designated as a donor. The organ procurement organization shall treat the information transferred from the department as confidential and may use the information only to expedite the making of anatomical gifts authorized by the donor.

(3) The donor registry must:

(a) Allow a donor or other person authorized under ORS 97.955 to include on the donor registry a statement or symbol that the donor has made, amended or revoked an anatomical gift;

(b) Be accessible to a procurement organization to allow the procurement organization to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift; and

(c) Be accessible for purposes of this subsection seven days a week on a 24-hour basis.

(4) Personally identifiable information on the donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or person who made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift. [2007 c.681 §17; 2009 c.595 §64]

Note: See note under 97.951.

Chapter 98

DISPOSITION OF UNLAWFULLY PARKED VEHICLES AND ABANDONED VEHICLES

98.805 Definitions for ORS 98.810 to 98.818, 98.830 and 98.840. As used in this section and ORS 98.810 to 98.818, 98.830 and 98.840:

(1) "Owner of a parking facility" means:

(a) The owner, lessee or person in lawful possession of a private parking facility; or

(b) Any officer or agency of this state with authority to control or operate a parking facility.

(2) "Owner of proscribed property" means the owner, lessee or person in lawful possession of proscribed property.

(3) "Parking facility" means any property used for vehicle parking.

(4) "Proscribed property" means any part of private property:

(a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or

(b) That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling or a duplex.

(5) "Tower" means a person issued a towing business certificate under ORS 822.205.

(6) "Vehicle" has the meaning given that term in ORS 801.590. [1979 c.100 §2; 1981 c.861 §23; 1983 c.436 §2; 2007 c.538 §9; 2017 c.480 §1]

98.810 Unauthorized parking of vehicle on proscribed property prohibited. A person may not, without the permission of:

(1) The owner of a parking facility, leave or park any vehicle on the parking facility if there is a sign displayed in plain view at the parking facility prohibiting or restricting public parking on the parking facility.

(2) The owner of proscribed property, leave or park any vehicle on the proscribed property whether or not there is a sign prohibiting or restricting parking on the proscribed property. [1953 c.575 §1; 1979 c.100 §3; 1981 c.861 §24; 1983 c.436 §3; 2007 c.538 §10]

98.811 Notice of parking violation; certificate of nonliability; dismissal of notice. (1) If the owner of a parking facility or the owner of proscribed property has issued a citation or other notice of a parking violation alleging that a vehicle owned by a person engaged in the business of selling, renting, leasing or repairing motor vehicles has been left or parked in violation of ORS 98.810 and mailed a copy of the citation or notice to the person, the person is relieved of liability for the violation if, within 30 days from the mailing of the citation or notice, the person:

(a) Submits a certificate of nonliability stating that the vehicle was not in the custody and control of the person, under the terms of an agreement permitting an individual to use a motor vehicle owned by the person, when the alleged violation occurred; and

(b) Provides the name and address of the individual who was in control of the vehicle at the time of the alleged violation.

(2) Upon receipt of the certificate of nonliability and information described in subsection (1) of this section, the owner of the parking facility or the owner of the proscribed property must dismiss the citation or notice with respect to the person and may reissue the citation or notice in the name of the individual in control of the vehicle when the alleged violation occurred. [2009 c.90 §2]

98.812 Towing of unlawfully parked vehicle; lien for towage, care and storage charges; notice requirements. (1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the parking facility or the owner of the proscribed property may have a tower tow the vehicle from the parking facility or the proscribed property and place the vehicle in storage at a secure location under the control of the tower.

(2) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges and may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towage, care and storage, subject to subsection (3) of this section, of the towed vehicle have been paid if the tower notifies the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage.

(3) A tower may not assess any storage charge against the towed vehicle under subsection (2) of this section that is incurred after:

(a) If the towed vehicle is registered in Oregon, three business days after the vehicle is placed in storage unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the certificate of title.

(b) If the towed vehicle is not registered in Oregon:

(A) Three business days after the vehicle is placed in storage unless, within that time, the tower notifies and requests the title information from the records of the motor vehicle agency for the state in which the towed vehicle is registered.

(B) Three business days from the date of receipt of the records requested under subparagraph (A) of this paragraph unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle

and to each person with an interest in the vehicle as indicated by the requested records.

(4) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [1953 c.575 §2; 1977 c.634 §1; 1979 c.100 §4; 1981 c.861 §25; 1983 c.436 §4; 1993 c.385 §2; 2001 c.424 §1; 2007 c.538 §11; 2009 c.622 §1; 2017 c.480 §2; 2019 c.547 §1]

98.818 Preference of lien. The lien created by ORS 98.812 shall have preference over any and all other liens or encumbrances upon the vehicle. [1953 c.575 §3; 2007 c.538 §11a]

98.830 Towing abandoned vehicle from private property; civil immunity; lien. (1) A person who is the owner, or is in lawful possession, of private property on which a vehicle has been abandoned may have a tower tow the vehicle from the property if:

(a) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed;

(b) The notice required by paragraph (a) of this subsection remains on the vehicle for at least 72 hours before the vehicle is towed; and

(c) The person fills out and signs a form that includes:

(A) A description of the vehicle to be towed;

(B) The location of the property from which the vehicle will be towed; and

(C) A statement that the person has complied with paragraphs (a) and (b) of this subsection.

(2) A tower who tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the tower has a form described in subsection (1) of this section, filled out by a person purporting to be the owner or a person in lawful possession of the private property from which the vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

(3) A vehicle towed under this section is subject to liens, possession and foreclosure by a tower under ORS 98.812 (2) to (4). [1995 c.758 §1; 2007 c.538 §12; 2017 c.480 §4; 2019 c.547 §2]

98.840 Towing vehicle alternative to procedure in ORS 98.810 to 98.818. The procedure authorized by ORS 98.830 for removal of abandoned vehicles from private property may be used by an owner of a parking facility or an owner of proscribed property as an alternative to the procedures described in ORS 98.810 to 98.818. [1995 c.758 §4; 2007 c.538 §13a; 2017 c.480 §5]

Chapter 114

ADMINISTRATION OF SMALL ESTATES

114.505 Definitions for ORS 114.505 to 114.560. As used in ORS 114.505 to 114.560:

(1) "Affiant" means the person or persons signing a small estate affidavit.

(2) "Claiming successors" means:

(a) If the decedent died intestate, the heir or heirs of the decedent, or if there is no heir, an estate administrator of the Department of State Lands appointed under ORS 113.235;

(b) If the decedent died testate, the devisee or devisees of the decedent; and

(c) Any creditor of the estate entitled to payment or reimbursement from the estate under ORS 114.545 (1)(f) who has not been paid or reimbursed the full amount owed such creditor within 60 days after the date of the decedent's death.

(3) "Small estate affidavit" means an affidavit or amended affidavit filed under ORS 114.515. [1973 c.710 §2; 1977 c.239 §1; 1979 c.340 §1; 1979 c.467 §3; 1989 c.228 §1; 2003 c.395 §14; 2005 c.22 §92; 2015 c.146 §2; 2019 c.165 §1]

114.515 Small estate affidavit; who may file; fee; amended affidavit; procedure when value of estate exceeds limitations; acknowledgment by clerk. (1) If the estate of a decedent meets the requirements of ORS 114.510, any of the following persons may file a small estate affidavit with the clerk of the probate court in any county where there is venue for a proceeding seeking the appointment of a personal representative for the estate:

(a) One or more of the claiming successors of the decedent.

(b) If the decedent died testate, any person named as personal representative in the decedent's will.

(c) The Director of Human Services, the Director of the Oregon Health Authority or an attorney approved under ORS 114.517, if the decedent received public assistance as defined in ORS 411.010, received medical assistance as defined in ORS 414.025 or received care at an institution as defined in ORS 179.010, and it appears that the assistance or the cost of care may be recovered from the estate of the decedent.

(2) A person may not file a small estate affidavit if:

(a) The person would be disqualified from acting as a personal representative under ORS 113.095; or

(b) The person has been convicted of a felony in Oregon or in another jurisdiction.

(3) A small estate affidavit may not be filed until 30 days after the death of the decedent.

(4) A small estate affidavit must contain the information required in ORS 114.525 and shall be made a part of the probate records. If the affiant is an attorney approved by the Director of Human Services or the Director of the Oregon Health Authority, a copy of the document approving the attorney must be attached to the affidavit.

(5) The clerk of the probate court shall charge and collect the fee established under ORS 21.145 for the filing of a small estate affidavit.

(6)(a) Except as provided in subsection (7) of this section, the affiant shall file an amended small estate affidavit in the following circumstances:

(A) To correct a material error or omission in a previous affidavit.

(B) To include property not described in a previous affidavit.

(b) The amended affidavit must include all information required under ORS 114.525 and state the value of the property as of the date used to prepare the original affidavit.

(7) If the fair market value of the property of the estate exceeds the value limitations for a small estate ORS 114.510, an affiant may not file an amended small estate affidavit under subsection (6) of this section and the affiant's authority with regard to the estate is terminated, except that the affiant shall deliver assets of the estate in the affiant's possession upon request by a personal representative appointed under ORS 113.085. The affiant shall promptly file notice with the court that the estate of the decedent is not subject to ORS 114.505 to 114.560 and shall serve a copy of the notice on each person who received a copy of the previous affidavit.

(8) The clerk of the probate court may acknowledge a small estate affidavit upon presentation of the identification of the affiant and the affiant's statement under penalty of perjury. [1973 c.710 §§3, 8; 1977 c.239 §2; 1979 c.467 §1; 1981 s.s. c.3 §36; 1985 c.368 §1; 1985 c.496 §6; 1987 c.586 §28; 1989 c.228 §2; 1989 c.856 §1; 1995 c.682 §1; 1997 c.447 §1; 1997 c.801 §32; 2003 c.737 §§59,60; 2005 c.122 §§1,2; 2005 c.273 §§1,2; 2005 c.702 §§69,70,71; 2009 c.262 §7; 2009 c.413 §1; 2009 c.828 §10; 2011 c.595 §22; 2013 c.688 §17; 2019 c.165 §4]

114.520 Authorization from Department of State Lands required for filing of affidavit by creditor if decedent dies intestate and without heirs; rules. (1) If a decedent dies intestate and without heirs, a creditor of an estate who is a claiming successor may not file a small estate affidavit unless the creditor has received written authorization from the Department of State Lands. Except as provided by rule adopted by the Director of the Department of State Lands, the department shall consent to the filing of a small estate affidavit by a creditor only if it appears after investigation that the estate is insolvent.

(2) A creditor of an estate who is subject to subsection (1) of this section may give written notice to the Department of State Lands informing the department that the creditor intends to file a small estate affidavit. Upon receiving the notice permitted by this subsection, the department shall investigate the assets and liabilities of the estate. Within 30 days after receiving the notice required by this subsection, the department shall either:

(a) Give written authorization to the creditor for the filing of a small estate affidavit by the creditor; or

(b) Inform the creditor that the Department of State Lands will file a small estate affidavit as claiming successor.

(3) If a decedent dies intestate and without heirs, a creditor of an estate who is a claiming successor and who files a small estate affidavit must notate at the top of the affidavit that the affidavit is being filed by a creditor of the estate. If the affidavit contains the notation required by this subsection, the clerk of the probate court may not accept the affidavit for filing unless there is attached to the affidavit written authorization for the filing of the affidavit by the creditor from the Department of State Lands. The written authorization may be a copy of a memorandum of an inter-agency agreement between the Department of State Lands and another state agency. [1997 c.88 §2; 2003 c.395 §15; 2019 c.165 §6]

Note: The amendments to 114.520 by section 41a, chapter 678, Oregon Laws 2019, become operative July 1, 2021. See section 85, chapter 678, Oregon Laws 2019. The text that is operative on and after July 1, 2021, is set forth for the user's convenience.

114.520. (1) If a decedent dies intestate and without heirs, a creditor of an estate who is a claiming successor may not file a small estate affidavit unless the creditor has received written authorization from the State Treasurer. Except as provided by rule adopted by the State Treasurer, the State Treasurer shall consent to the filing of a small estate affidavit by a creditor only if it appears after investigation that the estate is insolvent.

(2) A creditor of an estate who is subject to subsection (1) of this section may give written notice to the State Treasurer informing the State Treasurer that the creditor intends to file a small estate affidavit. Upon receiving the notice permitted by this subsection, the State Treasurer shall investigate the assets and liabilities of the estate. Within 30 days after receiving the notice required by this subsection, the State Treasurer shall either:

(a) Give written authorization to the creditor for the filing of a small estate affidavit by the creditor; or

(b) Inform the creditor that the State Treasurer will file a small estate affidavit as claiming successor.

(3) If a decedent dies intestate and without heirs, a creditor of an estate who is a claiming successor and who files a small estate affidavit must notate at the top of the affidavit that the affidavit is being filed by a creditor of the estate. If the affidavit contains the notation required by this subsection, the clerk of the probate court may not accept the affidavit for filing unless there is attached to the affidavit written authorization for the filing of the affidavit by the creditor from the State Treasurer. The written authorization may be a copy of a memorandum of an inter-agency agreement between the State Treasurer and another state agency.

114.525 Content of affidavit; rules. (1) A small estate affidavit must:

(a) Contain a notice in substantially the following form, printed in at least 14-point bold type immediately below the caption on the first page of the small estate affidavit:

NOTICE OF DUTY TO PAY DEBT OR TURN OVER PROPERTY

To: Any person to whom a copy of this small estate affidavit is mailed or delivered.

Under ORS 114.535, if you owe a debt to the decedent or have personal property of the decedent, you must pay the debt or turn over the property to the affiant. If you refuse, the affiant may ask the court to compel you to pay the debt or turn over the property and you could be responsible for the affiant's attorney fees.

(b) State the name and post-office address of the affiant.

(c) State the authority under which the affiant is filing the small estate affidavit, as provided in ORS 114.515.

(d) State that the small estate affidavit is made under ORS 114.505 to 114.560.

(e) State the name, age, domicile and post-office address and last four digits of the Social Security number of the decedent.

(f) State the date and place of the decedent's death.

(g) Describe and state the fair market value of all property in the estate, valued as provided in ORS 114.510, including a legal description of any real property.

(h) State that no personal representative of the estate has been appointed in Oregon, that there is no pending petition for appointment of a personal representative of the estate in Oregon and that the estate is not currently being administered in Oregon.

(i) State whether the decedent died testate or intestate.

(j) List the heirs of the decedent and the last address of each heir as known to the affiant, and state that a copy of the affidavit showing the date of filing and a copy of the will, if the decedent died testate, will be delivered to each heir or mailed to the heir at the last-known address.

(k) If the decedent died testate, list the devisees of the decedent and the last address of each devisee as known to the affiant and state that a copy of the will and a copy of the affidavit showing the date of filing will be delivered to each devisee or mailed to the devisee at the last-known address.

(L) State the interest in the property described in the affidavit to which each heir or devisee is entitled and the interest, if any, that will escheat.

(m) State that reasonable efforts have been made to ascertain creditors of the estate.

(n) List the claims against the estate that are undisputed by the affiant and that remain unpaid or on account of which the affiant or any other person is entitled to reimbursement from the estate, including the known or estimated amounts of the claims and the names and addresses of the creditors as known to the affiant, and state that a copy of the affidavit showing the date of filing will be delivered to each creditor who has not been paid in full or mailed to the creditor at the last-known address.

(o) Separately list the name and address of each person known to the affiant to assert a claim against the estate that the affiant disputes and the known or estimated amount of the claims disputed by the affiant and state that a copy of the affidavit showing the date of filing will be delivered to each such person or mailed to the person at the last known address.

(p)(A) State the mailing address for presentment of claims; and

(B) If the affiant wishes to authorize creditors to present claims by electronic mail or facsimile communication, state the electronic mail address or facsimile number for presentment of claims.

(q) List anticipated administrative expenses and attorney fees, if any.

(r) State that the affiant is not disqualified from acting as an affiant under ORS 114.515 (2).

(s) State that a copy of the affidavit showing the date of filing and a copy of the death record will be mailed or delivered to the Department of Human Services or to the Oregon Health Authority, as prescribed by rule by the department or authority.

(t) State, to the best of the affiant's knowledge, whether the decedent was incarcerated in a correctional facility in this state at any time in the 15 years before the decedent's death and, if the decedent was incarcerated in a correctional facility in this state at any time in the 15 years before the decedent's death, state that a copy of the affidavit showing the date of filing and a copy of the death record will be mailed or delivered to the Department of Corrections.

(u) State that undisputed claims against the estate will be paid as provided in ORS 114.545.

(v) State that claims against the estate not listed in the affidavit or in amounts larger than those listed in the affidavit may be barred unless:

(A) A claim is presented to the affiant within four months of the filing of the affidavit or amended affidavit at the address, electronic mail address or facsimile number stated in the affidavit for presentation of claims; or

(B) A petition for appointment of a personal representative of the estate is filed within the time allowed under ORS 114.555.

(w) If the affidavit lists one or more claims that the affiant disputes, state that any such claim may be barred unless:

(A) A petition for summary determination is filed within four months of the filing of the affidavit; or

(B) A petition for appointment of a personal representative of the estate is filed within the time allowed under ORS 114.555.

(2) The affiant shall file a certified copy of the death record of the decedent as a confidential document.

(3) If the decedent died testate, the affiant shall file simultaneously with the small estate affidavit:

(a)(A) The original will; or

(B) If the original will is filed in an estate proceeding in another jurisdiction, a certified copy of the original will; and

(b) Proof of the will meeting the requirements of ORS 113.055. [1973 c.710 §6; 1977 c.239 §3; 1979 c.340 §2; 1989 c.228 §3; 1991 c.191 §3; 1995 c.453 §1; 2001 c.104 §35; 2001 c.620 §2; 2001 c.900 §18a; 2003 c.196 §1; 2003 c.395 §16; 2005 c.22 §93; 2009 c.595 §79; 2013 c.14 §2; 2013 c.366 §60; 2017 c.169 §53; 2019 c.165 §7]

114.535 Transfer of decedent's property to affiant; payment of debt owing to decedent motion to compel transfer or payment. (1) The affiant may deliver a certified copy of a small estate affidavit to any person who has possession of personal property belonging to the estate or who was indebted to the decedent. Except as provided in this section, upon receipt of the certified copy, the person shall pay the debt or transfer, deliver, provide access to and allow possession of the personal property to the affiant.

(2) Subject to ORS 114.537, if a certified copy of a small estate affidavit is delivered under subsection (1) of this section to a person that controls access to personal property belonging to the estate of the decedent, including personal property held in a safe deposit box for which the decedent was the sole lessee or the last surviving lessee, the person shall:

(a) Provide the affiant with access to the decedent's personal property; and

(b) Allow the affiant to take possession of the personal property.

(3) Subject to ORS 114.537, if a certified copy of a small estate affidavit is delivered under subsection (1) of this section to a person who owes a debt to the decedent or has received property of the decedent under ORS 446.616, 708A.430, 723.466 or 803.094, or a similar statute providing for the transfer of property of an estate that is not being probated, the person shall pay the debt or transfer, deliver, provide access to or allow possession of the property to the affiant if the person would be required to pay the debt or transfer, deliver, provide access to or allow possession of the property to a personal representative of the estate.

(4) Any person that pays a debt owing to the decedent or transfers, delivers, provides access to or allows possession of property of a decedent in the manner provided by this section is discharged and released from any liability or responsibility for the debt or property in the same manner and with the same effect as if the debt had been paid or the property had been transferred or delivered to a personal representative of the estate of the decedent.

(5) The affiant may deliver a certified copy of a small estate affidavit to a transfer agent of any corporate security registered in the name of the decedent. The transfer agent shall change the registered ownership on the books of the corporation to the affiant or the person named in the affidavit entitled to it, as directed by the affiant.

(6)(a) If a person to whom a certified copy of a small estate affidavit is delivered under this section refuses to pay a debt or deliver, transfer, provide access to or allow possession of personal property as required by this section, the affiant may serve a written demand by certified mail on the person to pay the debt or deliver, transfer, provide access to or allow possession of the personal property. The demand must state that, if the person fails to pay the debt or deliver, transfer, provide access to or allow possession of the personal property, the affiant may file a motion to compel payment of the debt or delivery of, transfer of or access to the personal property.

(b) If the person fails to pay the debt or deliver, transfer, provide access to or allow possession of the personal property within 30 days after service of a demand under paragraph (a) of this subsection, the affiant may file a motion to compel payment of the debt or delivery of, transfer of or access to the personal property. The court may enter a judgment awarding reasonable attorney fees to the prevailing party if the court finds that the affiant filed the motion without an objectively reasonable basis or the person refused to pay the debt or deliver, transfer, provide access to or allow possession of any personal property without an objectively reasonable basis.

(7) If a small estate affidavit was signed by the Director of Human Services, the Director of the Oregon Health Authority or an attorney approved under ORS 114.517, the Director of Human Services, the Director of the Oregon Health Authority or the attorney may certify a copy of the affidavit for the purposes described in this section. [1973 c.710 §4; 1979 c.340 §3; 1989 c.228 §4; 1991 c.67 §23; 1997 c.631 §404; 2003 c.196 §2; 2003 c.655 §60; 2009 c.541 §4; 2009

c.595 §80; 2009 c.828 §11; 2011 c.422 §3; 2019 c.165 §8]

Note: The amendments to 114.535 by section 42, chapter 678, Oregon Laws 2019, become operative July 1, 2021. See section 85, chapter 678, Oregon Laws 2019. The text that is operative on and after July 1, 2021, is set forth for the user's convenience.

114.535. (1) The affiant may deliver a certified copy of a small estate affidavit to any person who has possession of personal property belonging to the estate or who was indebted to the decedent. Except as provided in this section, upon receipt of the certified copy, the person shall pay the debt or transfer, deliver, provide access to and allow possession of the personal property to the affiant.

(2) Subject to ORS 114.537, if a certified copy of a small estate affidavit is delivered under subsection (1) of this section to a person that controls access to personal property belonging to the estate of the decedent, including personal property held in a safe deposit box for which the decedent was the sole lessee or the last surviving lessee, the person shall:

(a) Provide the affiant with access to the decedent's personal property; and

(b) Allow the affiant to take possession of the personal property.

(3) Subject to ORS 114.537, if a certified copy of a small estate affidavit is delivered under subsection (1) of this section to a person who owes a debt to the decedent or has received property of the decedent under ORS 446.616, 708A.430, 723.466 or 803.094, or a similar statute providing for the transfer of property of an estate that is not being probated, the person shall pay the debt or transfer, deliver, provide access to or allow possession of the property to the affiant if the person would be required to pay the debt or transfer, deliver, provide access to or allow possession of the property to a personal representative of the estate.

(4) Any person that pays a debt owing to the decedent or transfers, delivers, provides access to or allows possession of property of a decedent in the manner provided by this section is discharged and released from any liability or responsibility for the debt or property in the same manner and with the same effect as if the debt had been paid or the property had been transferred or delivered to a personal representative of the estate of the decedent.

(5) The affiant may deliver a certified copy of a small estate affidavit to a transfer agent of any corporate security registered in the name of the decedent. The transfer agent shall change the registered ownership on the books of the corporation to the affiant or the person named in the affidavit entitled to it, as directed by the affiant.

(6)(a) If a person to whom a certified copy of a small estate affidavit is delivered under this section refuses to pay a debt or deliver, transfer, provide access to or allow possession of personal property as required by this section, the affiant may serve a written demand by certified mail on the person to pay the debt or deliver, transfer, provide access to or allow possession of the personal property. The demand must state that, if the person fails to pay the debt or deliver, transfer, provide access to or allow possession of the personal property, the affiant may file a motion to compel payment of the debt or delivery of, transfer of or access to the personal property.

(b) If the person fails to pay the debt or deliver, transfer, provide access to or allow possession of the personal property within 30 days after service of a demand under paragraph (a) of this subsection, the affiant may file a motion to compel payment of the debt or delivery of, transfer of or access to the personal property. The court may enter a judgment awarding reasonable attorney fees to the prevailing party if the court finds that the affiant filed the motion without an objectively reasonable basis or the person refused to pay the debt or deliver, transfer, provide access to or allow possession of any personal property without an objectively reasonable basis.

(7) If a small estate affidavit was signed by the Director of Human Services, the Director of the Oregon Health Authority or an attorney approved under ORS 114.517, the Director of Human Services, the Director of the Oregon Health Authority or the attorney may certify a copy of the affidavit for the purposes described in this section.

(8) Notwithstanding ORS chapters 270, 273 and 274, an estate administrator of the State Treasurer appointed under ORS 113.235 or the Director of Human Services or Director of the Oregon Health Authority serving as an affiant may deal with property of the estate as an affiant under this section.

114.540 Procedure for claims. (1)(a) A claim against an estate with respect to which a small estate affidavit is filed may be presented to the affiant within four months after the affidavit was filed. If an amended small estate affidavit is filed under ORS 114.515 (6), claims against the estate may be presented within four months after the filing of the amended affidavit.

(b) Except as provided in ORS 114.550, a claim presented after the limitations described in paragraph (a) of this subsection is barred.

(c) Filing a claim with the court does not constitute presentation to the affiant.

(d)(A) Except as provided in subparagraph (B) of this paragraph, a claim is presented to the affiant when the claim is mailed or personally delivered to the affiant at the mailing address for presentment of claims included in the small estate affidavit under ORS 114.525.

(B) If the affiant authorized creditors to present claims by electronic mail or facsimile communication in the small estate affidavit as provided in ORS 114.525, a claim is presented to the affiant when it is sent to the electronic mail address or the facsimile number designated by the affiant for presentment of claims, unless the sender receives a notice that the electronic mail was not delivered or the facsimile communication was not successful. If the affiant denies receiving the electronic mail or facsimile communication, the burden of proof is on the creditor to demonstrate that the electronic mail was properly addressed and sent or that the facsimile communication was properly addressed and successfully delivered or transmitted.

(e) Each claim presented to the affiant must include the information required by ORS 115.025.

(2)(a) A claim presented to the affiant that was not listed in the small estate affidavit shall be considered allowed as presented unless within 60 days after the date of presentment of the claim the affiant mails or delivers a notice of disallowance of the claim in whole or in part to the claimant and any attorney for the claimant. A notice of disallowance of a claim must state the reason for the disallowance and inform the claimant that the claim has been disallowed in whole or in part and, to the extent disallowed, will be barred unless:

(A) The claimant files a petition for summary determination as provided in ORS 114.542; or

(B) A petition for appointment of a personal representative of the estate is filed within the time allowed under ORS 114.555.

(b) Statement of a reason for disallowance under this subsection is not an admission by the affiant and does not preclude the assertion of other defenses to the claim. [1989 c.228 §7; 2003 c.523 §3; 2005 c.122 §4; 2019 c.165 §10]

114.545 Affiant as fiduciary; duties, functions and powers of affiant; limitation of liability of financial institution. (1) The affiant:

(a) Is a fiduciary who is under a general duty to administer, preserve, settle and distribute the estate in accordance with the terms of the will, the law of intestate succession and ORS 114.505 to 114.560 as expeditiously and with as little sacrifice of value as is reasonable under the circumstances.

(b) May not commingle property of the estate of which the affiant has taken possession with property of the affiant or any other person.

(c) Shall take control of the property of the estate coming into the possession of the affiant and collect the income from property of the estate in the possession of the affiant.

(d) Within 30 days after filing the small estate affidavit shall mail or deliver each instrument that the affidavit states will be mailed or delivered.

(e) May open one or more deposit accounts in a financial institution as defined in ORS 706.008 with funds of the decedent, upon which the affiant may withdraw funds by means of checks, drafts or negotiable orders of withdrawal or otherwise for the payment of claims and expenses described in paragraph (f) of this subsection.

(f) From and to the extent of the property of the estate, shall pay or reimburse any person who has paid:

(A) Expenses described in ORS 115.125 (1)(b) and (c) and listed in the small estate affidavit;

(B) Claims listed in the small estate affidavit as undisputed;

(C) Allowed claims presented to the affiant within the time permitted by ORS 114.540; and

(D) Claims that the probate court allowed upon summary determination under ORS 114.542.

(g) Shall pay claims and expenses under paragraph (f) of this subsection in the order of priority prescribed by ORS 115.125.

(h) May transfer and sell property that is part of the estate as provided in ORS 114.547.

(i) Shall retain records of the administration of the estate at least until the later of:

(A) The expiration of the two-year period established in ORS 114.550; or

(B) The conclusion of any summary review proceeding under ORS 114.550.

(2) Notwithstanding any other provision of this section or ORS 114.547, when an heir or devisee entitled to succeed to a conveyance fails or refuses to join in the conveyance as required by ORS 114.547, an affiant approved under ORS 114.517 may convey any real or personal property that is part of the estate at any time to a third party for a valuable consideration.

(3) Property conveyed by an affiant under ORS 114.547 this section is subject to liens and encumbrances against the decedent or the estate of the decedent. Property conveyed by an affiant under ORS 114.547 is not subject to rights of creditors of the decedent or liens or encumbrances against the heirs or devisees of the decedent. The presentation and allowance of a claim in a proceeding under ORS 114.505 to 114.560 does not make the claimant a secured creditor.

(4) Any claiming successor to whom property of the estate is delivered or transferred under ORS 114.505 to 114.560 is personally answerable and accountable:

(a) To the extent of the value of the property received, to creditors of the estate to the extent such creditors are entitled to payment under subsection (1) of this section; and

(b) To any personal representative of the estate of the decedent appointed after the payment, delivery or transfer is made.

(5) A financial institution as defined in ORS 706.008 that opens one or more deposit accounts for an affiant pursuant to subsection (1)(e) of this section is not liable to any other person for opening the account or accounts or for permitting the affiant to withdraw funds from the account or accounts by means of checks, drafts, negotiable orders of withdrawal or otherwise. The financial institution is not required to ensure that the funds of the decedent that are paid out by the affiant are properly applied. [1973 c.710 §7; 1979 c.340 §4; 1985 c.300 §5; 1989 c.148 §6; 1989 c.228 §5; 1991 c.191 §4; 2003 c.655 §61; 2015 c.146 §1; 2019 c.165 §13]

114.550 Summary review of administration of estate; hearing; order; removal of affiant; surcharge. (1)(a) The affiant or any claiming successor of the estate who has not been paid the full amount owed the claiming successor may, within two years after the filing of a small estate affidavit, file with the probate court a petition for summary review of administration of the estate.

(b) Notwithstanding paragraph (a) of this subsection, a person may file a petition for summary review under this section for the purpose of compelling the affiant to distribute property of the estate within 60 days after the completion of the two-year period described in paragraph (a) of this subsection.

(c) A creditor may not file a petition under this section if the creditor received a copy of a small estate affidavit delivered or mailed to the creditor within 30 days after the date the affidavit was filed, the creditor was shown as a disputed creditor in the affidavit and the creditor has not filed a petition for summary determination under ORS 114.542.

(d) A creditor may not file a petition under this section if the creditor presented a claim to the affiant, the claim was disallowed and the creditor did not file a petition for summary determination under ORS 114.542.

(2) Within 30 days after the filing of a petition under subsection (1) of this section by a person other than the affiant, the affiant shall file with the court an answer to the petition for summary review.

(3) The court shall hear the matter without a jury, after notice to the claiming successor and the affiant, and any interested person may be heard in the proceeding.

(4) Upon the hearing:

(a) The court shall review administration of the estate in a summary manner and may order the affiant to sell property of the estate and pay creditors, to pay creditors of the estate from property of the estate or of the affiant, or to distribute property of the estate to the claiming successors, or may order any person who has received property of the estate to pay amounts owed to claiming successors of the estate in whole or in part.

(b) If the court allows a claim of a creditor in whole or in part, the court shall order the affiant, to the extent of property of the estate allocable to the payment of the claim pursuant to ORS 115.125, and any claiming successor to whom property of the estate has been delivered or transferred under ORS 114.505 to 114.560, to the extent of the value of the property received, to pay to the creditor the amount allowed.

(c) The court may remove the affiant if the affiant failed to comply with ORS 114.505 to 114.560, surcharge the affiant for any loss caused by failure to comply with ORS 114.505 to 114.560 and authorize the substitution of a new affiant. [1989 c.228 §8; 2003 c.196 §3; 2019 c.165 §17]

114.555 Transfer of interest of decedent in property described in affidavit. (1)(a) If a petition to appoint a personal representative is not filed within four months after the filing of a small estate affidavit, then after the completion of the four-month period described in ORS 114.540, after all unsecured creditors of the estate have been paid to the extent of the property of the estate and before the completion of the two year period established in ORS 114.550, the affiant shall transfer the interest of the decedent in remaining property or proceeds of property described in the affidavit to the person or persons shown by the affidavit to be entitled to the property, and any other claims against the property are barred, except:

(A) As otherwise provided in this section and ORS 114.540, 114.542, 114.545 and 114.550; and

(B) For the purposes of a surviving spouse's claim for an elective share in the manner provided by ORS 114.600 to 114.725.

(b) Notwithstanding paragraph (a) of this subsection, if a petition for summary review has been filed under ORS 114.550, the affiant may not transfer the interest of the decedent in the property described in the affidavit until after all claims allowed in the summary review proceeding are paid to the extent of the property of the estate.

(2) Property conveyed by an affiant under this section is subject to liens and encumbrances against the decedent or the estate of the decedent. Property conveyed by an affiant under this section is subject to the rights of creditors of the decedent or the estate of the decedent until the expiration of the two-year period established in ORS 114.550.

(3) When the affiant transfers an interest in real property under this section, the affiant shall cause to be recorded in the deed records of the county in which the real property is situated a bargain and sale deed conveying the property to the person entitled to the property, executed in the manner required by ORS chapter 93.

(4) When the affiant transfers an interest in a manufactured structure as defined in ORS 446.561 belonging to a decedent and assessed as personal property under this section, the affiant shall file with the Department of Consumer and Business Services the necessary information for recording the successor's interest in the manufactured structure on an ownership document. [1973 c.710 §5; 1977 c.239 §4; 1989 c.228 §10; 2009 c.574 §21; 2019 c.165 §19]

114.560 Exclusive remedy. The exclusive remedy of a person injured by the failure of the affiant or any claiming successor to comply with the requirements of ORS 114.505 to 114.560 is a summary determination under ORS 114.542, a summary review of administration under ORS 114.550 or the filing of a petition for appointment of a personal representative for the estate within the time allowed by ORS 114.555. [1989 c.228 §9; 2019 c.165 §20]

Chapter 133

ARREST AND RELATED PROCEDURES

General Provisions

133.033 Peace officer; community caretaking functions. (1) Except as otherwise expressly prohibited by law, any peace officer is authorized to perform community caretaking functions.

(2) As used in this section, "community caretaking functions" means any lawful acts that are inherent in the duty of the peace officer to serve and protect the public. "Community caretaking functions" includes, but is not limited to:

(a) The right to enter or remain upon the premises of another if it reasonably appears to be necessary to:

(A) Prevent serious harm to any person or property;

(B) Render aid to injured or ill persons; or

(C) Locate missing persons.

(b) The right to stop or redirect traffic or aid motorists or other persons when such action reasonably appears to be necessary to:

(A) Prevent serious harm to any person or property;

(B) Render aid to injured or ill persons; or

(C) Locate missing persons.

(3) Nothing contained in this section shall be construed to limit the authority of a peace officer that is inherent in the office or that is granted by any other provision of law. [1991 c.959 §1; 2011 c.506 §9; 2011 c.644 §14]

Criminal Citations

133.066 Criminal citations generally.

(1) A criminal citation may include a complaint or may be issued without a form of complaint. If a criminal citation is issued without a complaint, the citation must be in the form provided by ORS 133.068. If a criminal citation is issued with a complaint, the citation must be in the form provided by ORS 133.069.

(2) A criminal citation may be issued with a complaint only if a procedure for the issuance of a citation with a complaint has been authorized by the district attorney for the county in which the crime is alleged to have been committed.

(3) A complaint or information may be filed with the court before or after the issuance of a criminal citation without a complaint. Nothing in this section affects the requirement that a complaint or information be filed for the crime charged.

(4) More than one crime may be charged in a single criminal citation. However, if a defendant is to be charged with driving while under the influence of intoxicants in violation of ORS 813.010, a separate criminal citation must be used for the charge of driving while under the influence of intoxicants and that citation may not be used to charge the defendant with the commission of any other crime.

(5) Uniform citation forms for crimes shall be adopted by the Supreme Court under ORS 1.525. In adopting those forms, the Supreme Court may combine the requirements for criminal citations under this section and the requirements for violation citations under ORS 153.045. A crime and a violation may not be charged on the same citation form. [1999 c.1051 §57]

133.068 Contents of criminal citation issued without complaint. A criminal citation issued without a form of complaint must contain:

(1) The name of the court at which the cited person is to appear.

(2) The name of the person cited.

(3) A brief description of the offense for which the person is charged, the date, time and place at which the offense occurred, the date on which the citation was issued, and the name of the peace officer who issued the citation.

(4) The date, time and place at which the person cited is to appear in court, and a summons to so appear.

(5) Whether a complaint or information had been filed with the court at the time the citation was issued.

(6) If the arrest was made by a private party, the name of the arresting person.

(7) The following:

READ CAREFULLY

This citation is not a complaint or an information. A complaint or an information may be filed and you will be provided a copy thereof at the time of your first appearance. You MUST appear in court at the time set in the citation. IF YOU FAIL TO APPEAR AND A COMPLAINT OR INFORMATION HAS BEEN FILED, THE COURT WILL IMMEDIATELY ISSUE A WARRANT FOR YOUR ARREST.

[1999 c.1051 §60]

133.069 Contents of criminal citation issued with complaint; non-conformance.

(1) A criminal citation issued with a form of complaint must contain:

(a) The name of the court at which the cited person is to appear.

(b) The name of the person cited.

(c) A complaint containing at least the following:

(A) The name of the court, the name of the state or of the city or other public body in whose name the action is brought and the name of the defendant.

(B) A statement or designation of the crime that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the crime is alleged to have been committed.

(C) A form of certificate in which the peace officer must certify that the peace officer has sufficient grounds to believe, and does believe, that the person named in the complaint committed the offense specified in the complaint. A certificate conforming to this subparagraph shall be deemed equivalent to a sworn complaint.

(d) The date on which the citation was issued, and the name of the peace officer who issued the citation.

(e) The date, time and place at which the person cited is to appear in court, and a summons to so appear.

(f) If the arrest was made by a private party, the name of the arresting person.

(2) The district attorney for the county shall review any criminal citation issued with a form of complaint that is to be filed in a circuit or justice court. The review must be done before the complaint is filed.

(3) If the complaint does not conform to the requirements of this section, the court shall set the complaint aside upon motion of the defendant made before entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(4) A court may amend a complaint at its discretion. [1999 c.1051 §61; 2001 c.870 §10; 2005 c.566 §1]

133.073 Electronic filing of criminal citation; court rules. (1) Notwithstanding ORS 133.065, a peace officer, following procedures established by court rule, may file a criminal citation with or without a form of complaint with the court by electronic means, without an actual signature of the officer, in lieu of filing a duplicate paper copy of the citation. A criminal citation filed under this section may be of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525. A peace officer who files a criminal citation under this section is deemed to certify the citation and any complaint included with the citation by that filing and has the same rights, responsibilities and liabilities in relation to the citation and any complaint included with the citation as an officer has in relation to citations and complaints that are filed with the court in paper form and are certified by actual signature.

(2) A court may allow electronic filing of criminal citations as described under subsection (1) of this section. Procedures established to allow electronic filing of criminal citations under this section shall be established by court rule and shall include procedures necessary to ensure that:

(a) An electronically filed criminal citation with or without a form of complaint includes all information required on a uniform citation adopted by the Supreme Court under ORS 1.525. However, an electronically filed criminal citation containing all required information, but of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525, shall not be prohibited by or found in violation of a rule established under this subsection.

(b) An electronically filed criminal citation with or without a form of complaint is verifiable as being filed by a specific peace officer.

(c) Members of the public can obtain copies of and review a criminal citation with or without a form of complaint that is electronically filed and maintained under this section in the same manner as the manner used for those filed on paper.

(3) For a criminal citation with a form of complaint issued under ORS 133.069, the district attorney's review required by ORS 133.069 and, if necessary, amendments for legal sufficiency, must be completed before the electronic filing of the citation with the form of complaint is made with a court under this section. [2005 c.566 §15; 2015 c.13 §1]

Warrant of Arrest

133.110 Issuance; citation. If an information or a complaint has been filed with the magistrate, and the magistrate is satisfied that there is probable cause to believe that the person has committed the crime specified in the information or complaint, the magistrate shall issue a warrant of arrest. If the offense is subject to issuance of a criminal citation under ORS 133.055, the court may authorize a peace officer to issue and serve a criminal citation in lieu of arrest. [Amended by 1969 c.244 §3; 1973 c.836 §68; 1983 c.661 §4; 1999 c.1051 §66]

133.120 Authority to issue warrant. (1) A judge of the Supreme Court or the Court of Appeals may issue a warrant of arrest for any crime committed or triable within the state, and any other magistrate mentioned in ORS 133.030 may issue a warrant for any crime committed or triable within the territorial jurisdiction of the magistrate's court.

(2) Notwithstanding subsection (1) of this section, a circuit court judge duly assigned pursuant to ORS 1.615 to serve as a judge pro tempore in a circuit court may issue a warrant of arrest for a crime committed or triable within the territorial

jurisdiction of any circuit court in which the judge serves as judge pro tempore if the request for the warrant includes an affidavit showing that a regularly elected or appointed circuit court judge for the judicial district is not available, whether by reason of conflict of interest or other reason, to issue the warrant within a reasonable time. [Amended by 1969 c.198 §60; 1973 c.836 §69; 1977 c.746 §2; 1983 c.661 §5; 2013 c.155 §10]

133.140 Content and form of warrant. A warrant of arrest shall:

(1) Be in writing;

(2) Specify the name of the person to be arrested, or if the name is unknown, shall designate the person by any name or description by which the person can be identified with reasonable certainty;

(3) State the nature of the crime;

(4) State the date when issued and the county or city where issued;

(5) Be in the name of the State of Oregon or the city where issued, be signed by and bear the title of the office of the magistrate having authority to issue a warrant for the crime charged;

(6) Command any peace officer, or any parole and probation officer for a person who is being supervised by the Department of Corrections or a county community corrections agency, to arrest the person for whom the warrant was issued and to bring the person before the magistrate issuing the warrant, or if the magistrate is absent or unable to act, before the nearest or most accessible magistrate in the same county;

(7) Specify that the arresting officer may enter premises, in which the officer has probable cause to believe the person to be arrested to be present, without giving notice of the officer's authority and purpose, if the issuing judge has approved a request for such special authorization; and

(8) Specify the amount of security for release. [Amended by 1961 c.443 §1; 1973 c.836 §70; 1977 c.746 §3; 1983 c.661 §6; 2005 c.668 §3]

Arrest

133.220 Who may make arrest. An arrest may be effected by:

(1) A peace officer under a warrant;

(2) A peace officer without a warrant;

(3) A parole and probation officer under a warrant as provided in ORS 133.239;

(4) A parole and probation officer without a warrant for violations of conditions of probation, parole or post-prison supervision;

(5) A private person; or

(6) A federal officer. [Amended by 1981 c.808 §2; 2005 c.668 §4]

133.225 Arrest by private person. (1) A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.

(2) In order to make the arrest a private person may use physical force as is justifiable under ORS 161.255. [1973 c.836 §74]

133.235 Arrest by peace officer; procedure. (1) A peace officer may arrest a person for a crime at any hour of any day or night.

(2) A peace officer may arrest a person for a crime, pursuant to ORS 133.310 (1), whether or not such crime was committed within the geographical area of such peace officer's employment, and the peace officer may make such arrest within the state, regardless of the situs of the offense.

(3) The officer shall inform the person to be arrested of the officer's authority and reason for the arrest, and, if the arrest is under a warrant, shall show the warrant, unless the officer encounters physical resistance, flight or other factors rendering this procedure impracticable, in which case the arresting officer shall inform the arrested person and show the warrant, if any, as soon as practicable.

(4) In order to make an arrest, a peace officer may use physical force as justifiable under ORS 161.235, 161.239 and 161.245.

(5) In order to make an arrest, a peace officer may enter premises in which the officer has probable cause to believe the person to be arrested to be present.

(6) If after giving notice of the officer's identity, authority and purpose, the officer is not admitted, the officer may enter the premises, and by a breaking, if necessary.

(7) A person may not be arrested for a violation except to the extent provided by ORS 153.039 and 810.410. [1973 c.836 §71; 1981 c.818 §1; 1999 c.1051 §67]

133.245 Arrest by federal officer; procedure. (1) A federal officer may arrest a person:

(a) For any crime committed in the federal officer's presence if the federal officer has probable cause to believe the person committed the crime.

(b) For any felony or Class A misdemeanor if the federal officer has probable cause to believe the person committed the crime.

(c) When rendering assistance to or at the request of a law enforcement officer, as defined in ORS 414.805.

(d) When the federal officer has received positive information in writing or by telephone, telegraph, teletype, radio, facsimile machine or other authoritative source that a peace officer holds a warrant for the person's arrest.

(2) The federal officer shall inform the person to be arrested of the federal officer's authority and reason for the arrest.

(3) In order to make an arrest, a federal officer may use physical force as is justifiable and authorized of a peace officer under ORS 161.235, 161.239 and 161.245.

(4)(a) A federal officer making an arrest under this section without unnecessary delay shall take the arrested person before a magistrate or deliver the arrested person to a peace officer.

(b) The federal officer retains authority over the arrested person only until the person appears before a magistrate or until the law enforcement agency having general jurisdiction over the area in which the arrest took place assumes responsibility for the person.

(5) A federal officer when making an arrest for a nonfederal offense under the circumstances provided in this section shall have the same immunity from suit as a state or local law enforcement officer.

(6) A federal officer is authorized to make arrests under this section upon certification by the Department of Public Safety Standards and Training that the federal officer has received proper training to enable that officer to make arrests under this section. [1981 c.808 §3; 1993 c.254 §2; 1995 c.79 §48; 1997 c.853 §34]

133.310 Authority of peace officer to arrest without warrant. (1) A peace officer may arrest a person without a warrant if the officer has probable cause to believe that the person has committed any of the following:

(a) A felony.

(b) A misdemeanor.

(c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater than the maximum penalty allowed for a Class C misdemeanor.

(d) Any other crime committed in the officer's presence.

(2) A peace officer may arrest a person without a warrant when the peace officer is notified by telegraph, telephone, radio or other mode of communication by another peace officer of any state that there exists a duly issued warrant for the arrest of a person within the other peace officer's jurisdiction.

(3) A peace officer shall arrest and take into custody a person without a warrant when the peace officer has probable cause to believe that:

(a) There exists an order issued pursuant to ORS 30.866, 107.095 (1)(c) or (d), 107.716, 107.718, 124.015, 124.020, 133.035, 163.738, 163.765, 163.767 or 419B.845 restraining the person;

(b) A true copy of the order and proof of service on the person has been filed as required in ORS 107.720, 124.030, 133.035, 163.741, 163.773 or 419B.845; and

(c) The person to be arrested has violated the terms of that order.

(4) A peace officer shall arrest and take into custody a person without a warrant if:

(a) The person protected by a foreign restraining order as defined by ORS 24.190 presents a copy of the foreign restraining order to the officer and represents to the officer that the order supplied is the most recent order in effect between the parties and that the person restrained by the order has been personally served with a copy of the order or has actual notice of the order; and

(b) The peace officer has probable cause to believe that the person to be arrested has violated the terms of the foreign restraining order.

(5) A peace officer shall arrest and take into custody a person without a warrant if:

(a) The person protected by a foreign restraining order as defined by ORS 24.190 has filed a copy of the foreign restraining order with a court or has been identified by the officer as a party protected by a foreign restraining order entered in the Law Enforcement Data System or in the databases of the National Crime Information Center of the United States Department of Justice; and

(b) The peace officer has probable cause to believe that the person to be arrested has violated the terms of the foreign restraining order.

(6) A peace officer shall arrest and take into custody a person without a warrant if the peace officer has probable cause to believe:

(a) The person has been charged with an offense and is presently released as to that charge under ORS 135.230 to 135.290; and

(b) The person has failed to comply with a no contact condition of the release agreement. [Amended by 1963 c.448 §1; 1973 c.836 §72; 1974 c.42 §2; 1977 c.845 §2; 1979 c.522 §2; 1981 c.780 §8; 1981 c.818 §2; 1983 c.338 §887; 1983 c.661 §7; 1987 c.730 §4a; 1989 c.171 §15; 1991 c.208 §2; 1991 c.222 §2; 1993 c.626 §10; 1993 c.731 §3; 1995 c.353 §11; 1995 c.666 §24; 1997 c.249 §45; 1997 c.863 §2; 1999 c.250 §2; 1999 c.1040 §8; 1999 c.1051 §68; 2005 c.753 §1; 2013 c.687 §15; 2015 c.252 §2]

133.315 Liability of peace officer making arrest. (1) No peace officer shall be held criminally or civilly liable for making an arrest pursuant to ORS 133.055 (2) or 133.310

(3) or (5) provided the peace officer acts in good faith and without malice.

(2) No peace officer shall be criminally or civilly liable for any arrest made under ORS 133.310 (4) if the officer reasonably believes that:

(a) A document or other writing supplied to the officer under ORS 133.310 (4) is an accurate copy of a foreign restraining order as defined by ORS 24.190 and is the most recent order in effect between the parties; and

(b) The person restrained by the order has been personally served with a copy of the order or has actual notice of the order. [1977 c.845 §9; subsection (2) enacted as 1991 c.222 §3; 1999 c.250 §3]

Note: 133.315 (2) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Chapter 146

INVESTIGATIONS OF DEATHS

146.003 Definitions for ORS 146.003 to 146.189 and 146.710 to 146.992. As used in ORS 146.003 to 146.189 and 146.710 to 146.992, unless the context requires otherwise:

(1) "Approved laboratory" means a laboratory approved by the Chief Medical Examiner as competent to perform the blood sample analysis required by ORS 146.113 (2).

(2) "Assistant district medical examiner" means a physician appointed by the district medical examiner to investigate and certify deaths within a county or district.

(3) "Cause of death" means the primary or basic disease process or injury ending life.

(4) "Death requiring investigation" means the death of a person occurring in any one of the circumstances set forth in ORS 146.090.

(5) "District medical examiner" means a physician appointed by the Chief Medical Examiner to investigate and certify deaths within a county or district, including a Deputy State Medical Examiner.

(6) "Law enforcement agency" means a county sheriff's office, municipal police department, police department established by a university under ORS 352.121 or 353.125 and the Oregon State Police.

(7) "Legal intervention" includes an execution pursuant to ORS 137.463, 137.467 and

137.473 and other legal use of force resulting in death.

(8) "Manner of death" means the designation of the probable mode of production of the cause of death, including natural, accidental, suicidal, homicidal, legal intervention or undetermined.

(9) "Medical examiner" means a physician appointed as provided by ORS 146.003 to

146.189 to investigate and certify the cause and manner of deaths requiring investigation, including the Chief Medical Examiner.

(10) "Medical-legal death investigator" means a person appointed by the district medical examiner to assist in the investigation of deaths within a county.

(11) "Pathologist" means a physician holding a current license to practice medicine and surgery and who is eligible for certification by the American Board of Pathology.

(12) "Unidentified human remains" does not include human remains that are unidentified human remains that are part of an archaeological site or suspected of being Native American and covered under ORS chapters 97 and 390 and ORS 358.905 to 358.961. [1973 c.408 §1a; 1995 c.744 §17; 2007 c.500 §1; 2011 c.506 §18; 2013 c.180 §18; 2017 c.151 §3]

146.035 Chief Medical Examiner; personnel; records; right to examine records.

(1) There is established within the Department of State Police the Office of the Chief Medical Examiner for the purpose of directing and supporting the state death investigation program.

(2) The Chief Medical Examiner shall manage all aspects of the Office of the Chief Medical Examiner's program.

(3) Subject to the State Personnel Relations Law, the Chief Medical Examiner may employ or discharge other personnel of the Office of the Chief Medical Examiner.

(4) The Office of the Chief Medical Examiner shall:

(a) File and maintain appropriate reports on all deaths requiring investigation.

(b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.

(c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.

(5) Notwithstanding ORS 192.345 (36):

(a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

(b) The system described in ORS 192.517

(1) shall have access to reports described in this subsection as provided in ORS 192.517.

[1973 c.408 §4; 1987 c.142 §1; 1995 c.504 §3; 1995 c.744 §8; 2003 c.14 §60; 2005 c.498 §1; 2009 c.222 §§3,5; 2011 c.9 §7; 2013 c.1 §§6,7; 2015 c.14 §3; 2017 c.151 §6]

146.045 Duties of Chief Medical Examiner; persons missing at sea, in wilderness or in forested environment. (1) After consultation with the State Medical Examiner Advisory Board, the Chief Medical Examiner shall appoint each Deputy State Medical Examiner.

(2) The Chief Medical Examiner shall:

(a) Appoint and discharge each district medical examiner as provided by ORS 146.065 (2).

(b) Designate those pathologists authorized to perform autopsies under ORS 146.117 (2).

(c) Approve those laboratories authorized to perform the analyses required under ORS

146.113 (2).

(3) The Chief Medical Examiner may:

(a) Assume control of a death investigation in cooperation with the district attorney.

(b) Order an autopsy in a death requiring investigation.

(c) Certify the cause and manner of a death requiring investigation.

(d) Amend a previously completed report on a death requiring investigation.

(e) Order a body exhumed in a death requiring investigation.

(f) Designate a Deputy State Medical Examiner as Acting Chief Medical Examiner.

(g) After a reasonable and thorough investigation, complete and file a report of death for a person whose body is not found.

(4) Distribution of moneys from the Chief Medical Examiner's budget for partial reimbursement of each county's autopsy expenditures shall be made subject to approval of the Chief Medical Examiner.

(5) Within 45 days of receipt of information that a person is missing at sea and presumed dead, the Chief Medical Examiner shall determine whether the information is credible and, if so, complete and file a report of death for the person presumed dead. If the information is determined not to be credible, the Chief Medical Examiner may continue the death investigation.

(6)(a) If the Search and Rescue Coordinator and a county sheriff investigate a person missing in the wilderness or a forested environment and determine that the person is believed to be deceased, the sheriff shall send documentation of the investigation and determination to the Chief Medical Examiner.

(b) Within seven days after receiving documentation under paragraph (a) of this subsection, the Chief Medical Examiner shall evaluate the credibility of the investigation and the determination that the person is believed to be deceased.

(c) If the Chief Medical Examiner, based on the evaluation under paragraph (b) of this subsection and the Chief Medical Examiner's field of expertise, determines that there is no reasonable suspicion that the person is not deceased, the Chief Medical Examiner shall complete and file a report of death for the person believed to be deceased within 45 days after making the determination.

(d)(A) If the Chief Medical Examiner, based on the evaluation under paragraph (b) of this subsection and the Chief Medical Examiner's field of expertise, determines that there is a reasonable suspicion that the person is not deceased, the Chief Medical Examiner shall report to the sheriff with the basis for the determination and a list of any missing information that would aid the Chief Medical Examiner in evaluating the credibility of the investigation and the determination that the person is believed to be deceased.

(B) Upon receiving a report under subparagraph (A) of this paragraph, the sheriff shall make a reasonable effort to provide the missing information listed by the Chief Medical Examiner.

(C) After issuing a report under this paragraph, the Chief Medical Examiner shall continue the death investigation in conjunction with the sheriff and the Search and Rescue Coordinator until the sheriff issues a final report on the missing person. If, at any time, the Chief Medical Examiner determines, based on the Chief Medical Examiner's field of expertise, that there is no reasonable suspicion that the person is not deceased, the Chief Medical Examiner shall complete and file a report of death for the person believed to be deceased within 45 days after making the determination. [1973 c.408 §5; 2005 c.90 §1; 2013 c.366 §66; 2017 c.151 §7; 2019 c.435 §1]

146.090 Deaths requiring investigation.

(1) The medical examiner shall investigate and certify the cause and manner of all human deaths:

(a) Apparently homicidal, suicidal or occurring under suspicious or unknown circumstances;

(b) Resulting from the unlawful use of controlled substances or the use or abuse of chemicals or toxic agents;

(c) Occurring while incarcerated in any jail, correction facility or in police custody;

(d) Apparently accidental or following an injury;

(e) By disease, injury or toxic agent during or arising from employment;

(f) While not under the care of a physician during the period immediately previous to death;

(g) Related to disease which might constitute a threat to the public health; or

(h) In which a human body apparently has been disposed of in an offensive manner.

(2) As used in this section, "offensive manner" means a manner offensive to the generally accepted standards of the community. [1973 c.408 §12; 1979 c.744 §4; 1985 c.207 §1]

146.113 Authority to order removal of body fluids. (1) A medical examiner or district attorney may, in any death requiring investigation, order samples of blood or urine taken for laboratory analysis.

(2) When a death requiring an investigation as a result of a motor vehicle accident occurs within five hours after the accident and the deceased is over 13 years of age, a blood sample shall be taken and forwarded to an approved laboratory for analysis. Such blood or urine samples shall be analyzed for the presence and quantity of ethyl alcohol, and if considered necessary by the Chief Medical Examiner, the presence of cannabis or controlled substances.

(3) Laboratory reports of the analysis shall be made a part of the Chief Medical Examiner's and district medical examiner's files. [1973 c.408 §17; 1979 c.744 §5; 2017 c.21 §41; 2017 c.151 §18]

Chapter 161

CRIMES AND PUNISHMENTS

General Definitions

161.015 General definitions. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) "Dangerous weapon" means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(2) "Deadly weapon" means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

(3) "Deadly physical force" means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(4) "Peace officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS 133.005, or a police officer commissioned by a university under ORS 352.121 or 353.125;

(c) An investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney's office;

(d) A humane special agent as defined in ORS 181A.345;

(e) A regulatory specialist exercising authority described in ORS 471.775 (2);

(f) An authorized tribal police officer as defined in ORS 181A.680; and

(g) Any other person designated by law as a peace officer.

(5) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

(7) "Physical injury" means impairment of physical condition or substantial pain.

(8) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

(9) "Possess" means to have physical possession or otherwise to exercise dominion or control over property.

(10) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation. [1971 c.743 §3; 1973 c.139 §1; 1979 c.656 §3; 1991 c.67 §33; 1993 c.625 §4; 1995 c.651 §5; 2011 c.506 §22; 2011 c.641 §2; 2011 c.644 §§23,46; 2012 c.54 §§16,17; 2012 c.67 §§9,10; 2013 c.180 §§23,24; 2015 c.174 §11; 2015 c.614 §§147,148]

Note: Legislative Counsel has substituted "chapter 743, Oregon Laws 1971," for the words "this Act" in sections 2, 3, 4, 5, 6, 7, 19, 20, 21 and 36, chapter 743, Oregon Laws 1971, compiled as 161.015, 161.025, 161.035, 161.045, 161.055, 161.085, 161.195, 161.200, 161.205 and 161.295. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 22 of ORS.

Criminal Liability

161.085 Definitions with respect to culpability. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) "Act" means a bodily movement.

(2) "Voluntary act" means a bodily movement performed consciously and includes the conscious possession or control of property.

(3) "Omission" means a failure to perform an act the performance of which is required by law.

(4) "Conduct" means an act or omission and its accompanying mental state.

(5) "To act" means either to perform an act or to omit to perform an act.

(6) "Culpable mental state" means intentionally, knowingly, recklessly or with criminal negligence as these terms are defined in subsections (7), (8), (9) and (10) of this section.

(7) "Intentionally" or "with intent," when used with respect to a result or to conduct described by a statute defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.

(8) "Knowingly" or "with knowledge," when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person acts with an awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.

(9) "Recklessly," when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(10) "Criminal negligence" or "criminally negligent," when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. [1971 c.743 §7; 1973 c.139 §2]

Note: See note under 161.015.

161.095 Requirements for criminal liability. (1) The minimal requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which the person is capable of performing.

(2) Except as provided in ORS 161.105, a person is not guilty of an offense unless the person acts with a culpable mental state with respect to each material element of the offense that necessarily requires a culpable mental state. [1971 c.743 §8]

161.105 Culpability requirement inapplicable to certain violations and offenses. (1) Notwithstanding ORS 161.095, a culpable mental state is not required if:

(a) The offense constitutes a violation, unless a culpable mental state is expressly included in the definition of the offense; or

(b) An offense defined by a statute outside the Oregon Criminal Code clearly indicates a legislative intent to dispense with any culpable mental state requirement for the offense or for any material element thereof.

(2) Notwithstanding any other existing law, and unless a statute enacted after January 1, 1972, otherwise provides, an offense defined by a statute outside the Oregon Criminal Code that requires no culpable mental state constitutes a violation.

(3) Although an offense defined by a statute outside the Oregon Criminal Code requires no culpable mental state with respect to one or more of its material elements, the culpable commission of the offense may be alleged and proved, in which case criminal negligence constitutes sufficient culpability, and the classification of the offense and the authorized sentence shall be determined by ORS 161.505 to 161.605 and 161.615 to 161.655. [1971 c.743 §9]

161.115 Construction of statutes with respect to culpability. (1) If a statute defining an offense prescribes a culpable mental state but does not specify the element to which it applies, the prescribed culpable mental state applies to each material element of the offense that necessarily requires a culpable mental state.

(2) Except as provided in ORS 161.105, if a statute defining an offense does not prescribe a culpable mental state, culpability is nonetheless required and is established only if a person acts intentionally, knowingly, recklessly or with criminal negligence.

(3) If the definition of an offense prescribes criminal negligence as the culpable mental state, it is also established if a person acts intentionally, knowingly or recklessly. When recklessness suffices to establish a culpable mental state, it is also established if a person acts intentionally or knowingly. When acting knowingly suffices to establish a culpable mental state, it is also established if a person acts intentionally.

(4) Knowledge that conduct constitutes an offense, or knowledge of the existence, meaning or application of the statute defining an offense, is not an element of an offense unless the statute clearly so provides. [1971 c.743 §10]

161.125 Drug or controlled substance use or dependence or intoxication as defense. (1) The use of drugs or controlled substances, dependence on drugs or controlled substances or voluntary intoxication shall not, as such, constitute a defense to a criminal charge, but in any

prosecution for an offense, evidence that the defendant used drugs or controlled substances, or was dependent on drugs or controlled substances, or was intoxicated may be offered by the defendant whenever it is relevant to negative an element of the crime charged.

(2) When recklessness establishes an element of the offense, if the defendant, due to the use of drugs or controlled substances, dependence on drugs or controlled substances or voluntary intoxication, is unaware of a risk of which the defendant would have been aware had the defendant been not intoxicated, not using drugs or controlled substances, or not dependent on drugs or controlled substances, such unawareness is immaterial. [1971 c.743 §11; 1973 c.697 §13; 1979 c.744 §6]

Inchoate Crimes

161.405 "Attempt" described. (1) A person is guilty of an attempt to commit a crime when the person intentionally engages in conduct which constitutes a substantial step toward commission of the crime.

(2) An attempt is a:

(a) Class A felony if the offense attempted is any degree of murder, aggravated murder or treason.

(b) Class B felony if the offense attempted is a Class A felony.

(c) Class C felony if the offense attempted is a Class B felony.

(d) Class A misdemeanor if the offense attempted is a Class C felony or an unclassified felony.

(e) Class B misdemeanor if the offense attempted is a Class A misdemeanor.

(f) Class C misdemeanor if the offense attempted is a Class B misdemeanor.

(g) Violation if the offense attempted is a Class C misdemeanor or an unclassified misdemeanor. [1971 c.743 §54; 2019 c.635 §15a]

Classes of Offenses

161.505 "Offense" described. An offense is conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law or ordinance of a political subdivision of this state. An offense is either a crime, as described in ORS 161.515, or a violation, as described in ORS 153.008. [1971 c.743 §65; 1975 c.451 §173; 1981 c.626 §2; 1981 c.692 §7; 1999 c.1051 §43]

161.515 "Crime" described. (1) A crime is an offense for which a sentence of imprisonment is authorized.

(2) A crime is either a felony or a misdemeanor. [1971 c.743 §66]

161.525 "Felony" described. Except as provided in ORS 161.585, 161.705 and 161.710, a crime is a felony if it is so designated in any statute of this state or if a person convicted under a statute of this state may be sentenced to a maximum term of imprisonment of more than one year. [1971 c.743 §67; 2017 c.439 §3]

161.535 Classification of felonies. (1) Felonies are classified for the purpose of sentence into the following categories:

(a) Class A felonies;

(b) Class B felonies;

(c) Class C felonies; and

(d) Unclassified felonies.

(2) The particular classification of each felony defined in the Oregon Criminal Code, except murder in any degree under ORS 163.107 or 163.115 and treason under ORS 166.005, is expressly designated in the section defining the crime. An offense defined outside this code which, because of the express sentence provided is within the definition of ORS 161.525, shall be considered an unclassified felony. [1971 c.743 §68; 2019 c.635 §16]

161.545 "Misdemeanor" described. A crime is a misdemeanor if it is so designated in any statute of this state or if a person convicted thereof may be sentenced to a maximum term of imprisonment of not more than one year. [1971 c.743 §69]

161.555 Classification of misdemeanors. (1) Misdemeanors are classified for the purpose of sentence into the following categories:

(a) Class A misdemeanors;

(b) Class B misdemeanors;

(c) Class C misdemeanors; and

(d) Unclassified misdemeanors.

(2) The particular classification of each misdemeanor defined in the Oregon Criminal Code is expressly designated in the section defining the crime. An offense defined outside this code which, because of the express sentence provided is within the definition of ORS 161.545, shall be considered an unclassified misdemeanor.

(3) An offense defined by a statute of this state, but without specification as to its classification or as to the penalty authorized upon conviction, shall be considered a Class A misdemeanor. [1971 c.743 §70] 161.565 [1971 c.743 §71; 1987 c.783 §1; 1989 c.1053 §17; 1991 c.111 §17; 1993 c.533 §4; 1997 c.852 §12; repealed by 1999 c.1051 §49]

161.566 Misdemeanor treated as violation; prosecuting attorney's election. (1) Except as provided in subsection (4) of this section, a prosecuting attorney may elect to treat any misdemeanor as a Class A violation. The election must be made by the prosecuting attorney orally at the time of the first appearance of

the defendant or in writing filed on or before the time scheduled for the first appearance of the defendant. If no election is made within the time allowed, the case shall proceed as a misdemeanor.

(2) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this section, the court shall amend the accusatory instrument to reflect the charged offense as a Class A violation and clearly denominate the offense as a Class A violation in any judgment entered in the matter. Notwithstanding ORS 153.021, the fine that a court may impose upon conviction of a violation under this section may not:

(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

(3) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this section, and the defendant fails to make any required appearance in the matter, the court may enter a default judgment against the defendant in the manner provided by ORS 153.102. Notwithstanding ORS 153.021, the fine that the court may impose under a default judgment entered pursuant to ORS 153.102 may not:

(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

(4) A prosecuting attorney may not elect to treat misdemeanors created under ORS 811.540 or 813.010 as violations under the provisions of this section.

(5) The election provided for in this section may be made by a city attorney acting as prosecuting attorney in the case of municipal ordinance offenses, a county counsel acting as prosecuting attorney under a county charter in the case of county ordinance offenses, and the Attorney General acting as prosecuting attorney in those criminal actions or proceedings within the jurisdiction of the Attorney General. [1999 c.1051 §47; 2003 c.737 §89; 2011 c.597 §16; 2012 c.82 §2]

161.568 Misdemeanor treated as violation; court's election. (1) Except as provided in subsection (4) of this section, a court may elect to treat any misdemeanor as a Class A violation for the purpose of entering a default judgment under ORS 153.102 if:

(a) A complaint or information has been filed with the court for the misdemeanor;

(b) The defendant has failed to make an appearance in the proceedings required by the court or by law; and

(c) The court has given notice to the district attorney for the county and the district attorney has informed the court that the district attorney does not object to treating the misdemeanor as a Class A violation.

(2) If the court treats a misdemeanor as a Class A violation under this section, the court shall amend the accusatory instrument to reflect the charged offense as a Class A violation and clearly denominate the offense as a Class A violation in the judgment entered in the matter.

(3) Notwithstanding ORS 153.021, if the court treats a misdemeanor as a Class A violation under this section, the fine that the court may impose under a default judgment entered pursuant to ORS 153.102 may not:

(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

(4) A court may not treat misdemeanors created under ORS 811.540 or 813.010 as violations under the provisions of this section. [1999 c.1051 §48; 2003 c.737 §90; 2011 c.597 §17; 2012 c.82 §3]

161.570 Felony treated as misdemeanor. (1) As used in this section, "nonperson felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS 475.752 (7), 475.854 (2)(b) or 475.874 (2)(b) as a Class A misdemeanor. The election must be made by the district attorney orally or in writing at the time of the first appearance of the defendant. If a district attorney elects to treat a Class C felony or a violation of ORS 475.752 (7), 475.854 (2)(b) or 475.874 (2)(b) as a Class A misdemeanor under this subsection, the court shall amend the accusatory instrument to reflect the charged offense as a Class A misdemeanor.

(3) If, at some time after the first appearance of a defendant charged with a Class C nonperson felony or a violation of ORS 475.752 (7), 475.854 (2)(b) or 475.874 (2)(b), the district attorney and the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow the offense to be treated as a Class A misdemeanor by stipulation of the parties.

(4) If a Class C felony or a violation of ORS 475.752 (7), 475.854 (2)(b) or 475.874 (2)(b) is treated as a Class A misdemeanor under this section, the court shall clearly denominate the offense as a Class A misdemeanor in any judgment entered in the matter.

(5) If no election or stipulation is made under this section, the case proceeds as a felony.

(6) Before a district attorney may make an election under subsection (2) of this section, the district attorney shall adopt written guidelines for determining when and under what circumstances the election may be made. The district attorney shall apply the guidelines uniformly.

(7) Notwithstanding ORS 161.635, the fine that a court may impose upon conviction of a misdemeanor under this section may not:

(a) Be less than the minimum fine established by ORS 137.286 for a felony; or

(b) Exceed the amount provided in ORS 161.625 for the class of felony receiving Class A misdemeanor treatment. [2003 c.645 §2; 2005 c.708 §47; 2007 c.286 §1; 2011 c.597 §18; 2013 c.591 §4; 2017 c.706 §25] 161.575 [1971 c.743 §72; repealed by 1999 c.1051 §49]

161.585 Classification of certain crimes determined by punishment. (1) When a crime punishable as a felony is also punishable by imprisonment for a maximum term of one year or by a fine, the crime shall be classed as a misdemeanor if the court imposes a punishment other than imprisonment under ORS 137.124 (1).

(2) Notwithstanding the provisions of ORS 161.525, upon conviction of a crime punishable as described in subsection (1) of this section, the crime is a felony for all purposes until one of the following events occurs, after which occurrence the crime is a misdemeanor for all purposes:

(a) Without imposing a sentence of probation, the court imposes a sentence of imprisonment other than to the legal and physical custody of the Department of Corrections.

(b) Without imposing a sentence of probation, the court imposes a fine.

(c) Upon revocation of probation, the court imposes a sentence of imprisonment other than to the legal and physical custody of the Department of Corrections.

(d) Upon revocation of probation, the court imposes a fine.

(e) The court declares the offense to be a misdemeanor, either at the time of imposing a sentence of probation, upon suspension of imposition of a part of a sentence, or on application of defendant or the parole and probation officer of the defendant thereafter.

(f) The court imposes a sentence of probation on the defendant without imposition of any other sentence upon conviction and defendant is thereafter discharged without any other sentence.

(g) Without imposing a sentence of probation and without imposing any other sentence, the court declares the offense to be a misdemeanor and discharges the defendant.

(3) The provisions of this section shall apply only to persons convicted of a felony committed prior to November 1, 1989. [1971 c.743 §73; 1987 c.320 §85; 1989 c.790 §52; 1993 c.14 §18; 2005 c.264 §15]

Disposition of Offenders

161.605 Maximum terms of imprisonment for felonies. The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

(1) For a Class A felony, 20 years.

(2) For a Class B felony, 10 years.

(3) For a Class C felony, 5 years.

(4) For an unclassified felony as provided in the statute defining the crime. [1971 c.743 §74]

161.610 Enhanced penalty for use of firearm during commission of felony; pleading; minimum penalties; suspension or reduction of penalty. (1) As used in this section, "firearm" has the meaning given that term in ORS 166.210.

(2) The use or threatened use of a firearm, whether operable or inoperable, by a defendant during the commission of a felony may be pleaded in the accusatory instrument and proved at trial as an element in aggravation of the crime as provided in this section. When a crime is so pleaded, the aggravated nature of the crime may be indicated by adding the words "with a firearm" to the title of the offense. The unaggravated crime shall be considered a lesser included offense.

(3) Notwithstanding the provisions of ORS 161.605 or 137.010 (3) and except as otherwise provided in subsection (6) of this section, if a defendant is convicted of a felony having as an element the defendant's use or threatened use of a firearm during the commission of the crime, the court shall impose at least the minimum term of imprisonment as provided in subsection (4) of this section. Except as provided in ORS 144.122 and 144.126 and subsection (5) of this section, in no case shall any person punishable under this section become eligible for work release, parole, temporary leave or terminal leave until the minimum term of imprisonment is served, less a period of time equivalent to any reduction of imprisonment granted for good time served or time credits earned under ORS 421.121, nor shall the execution of the sentence imposed upon such person be suspended by the court.

(4) The minimum terms of imprisonment for felonies having as an element the defendant's use or threatened use of a firearm in the commission of the crime shall be as follows:

(a) Except as provided in subsection (5) of this section, upon the first conviction for such felony, five years, except that if the firearm is a machine gun, short-barreled rifle, short-barreled shotgun or is equipped with a firearms silencer, the term of imprisonment shall be 10 years.

(b) Upon conviction for such felony committed after punishment pursuant to paragraph (a) of this subsection or subsection (5) of this section, 10 years, except that if the firearm is a machine gun, short-barreled rifle, short-barreled shotgun

or is equipped with a firearms silencer, the term of imprisonment shall be 20 years.

(c) Upon conviction for such felony committed after imprisonment pursuant to paragraph (b) of this subsection, 30 years.

(5) If it is the first time that the defendant is subject to punishment under this section, rather than impose the sentence otherwise required by subsection (4)(a) of this section, the court may:

(a) For felonies committed prior to November 1, 1989, suspend the execution of the sentence or impose a lesser term of imprisonment, when the court expressly finds mitigating circumstances justifying such lesser sentence and sets forth those circumstances in its statement on sentencing; or

(b) For felonies committed on or after November 1, 1989, impose a lesser sentence in accordance with the rules of the Oregon Criminal Justice Commission.

(6) When a defendant who is convicted of a felony having as an element the defendant's use or threatened use of a firearm during the commission of the crime is a person who was waived under ORS 137.707 (5)(b)(A), 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370, the court is not re quired to impose a minimum term of imprisonment under this section. [1979 c.779 §2; 1985 c.552 §1; 1989 c.790 §72; 1989 c.839 §18; 1991 c.133 §3; 1993 c.692 §9; 1999 c.951 §3; 2005 c.407 §1; 2009 c.610 §5; 2019 c.634 §7]

161.615 Maximum terms of imprisonment for misdemeanors. Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

(1) For a Class A misdemeanor, 364 days.

(2) For a Class B misdemeanor, 6 months.

(3) For a Class C misdemeanor, 30 days.

(4) For an unclassified misdemeanor, as provided in the statute defining the crime. [1971 c.743 §75; 2017 c.706 §22]

161.620 Sentences imposed upon waiver. Notwithstanding any other provision of law, a sentence imposed upon any person waived under ORS 419C.349, 419C.352, 419C.364 or 419C.370 shall not include any sentence of death or life imprisonment without the possibility of release or parole nor imposition of any mandatory minimum sentence except that a mandatory minimum sentence under:

(1) ORS 137.707 shall be imposed, except as provided in ORS 137.712;

(2) ORS 163.105 (1)(c) shall be imposed; and

(3) ORS 161.610 may be imposed. [1985 c.631 §9; 1989 c.720 §3; 1993 c.33 §306; 1993 c.546 §119; 1995 c.422 §131y; 1999 c.951 §2; 2019 c.634 §8]

Note: 161.620 was added to and made a part of ORS 161.615 to 161.685 by legislative action but was not added to any smaller series in that series. See Preface to Oregon Revised Statutes for further explanation.

161.625 Fines for felonies. (1) A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) $500,000 for murder or aggravated murder.

(b) $375,000 for a Class A felony.

(c) $250,000 for a Class B felony.

(d) $125,000 for a Class C felony.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section does not apply to a corporation. [1971 c.743 §76; 1981 c.390 §1; 1991 c.837 §11; 1993 c.680 §36; 2003 c.615 §1; 2003 c.737 §86]

161.635 Fines for misdemeanors. (1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) $6,250 for a Class A misdemeanor.

(b) $2,500 for a Class B misdemeanor.

(c) $1,250 for a Class C misdemeanor.

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) If a person has gained money or property through the commission of a misdemeanor,

then upon conviction thereof the court, instead of imposing the fine authorized for the offense under this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(4) This section does not apply to corporations. [1971 c.743 §77; 1981 c.390 §2; 1993 c.680 §30; 1995 c.545 §2; 1999 c.1051 §44; 2003 c.737 §87]

Authority of Sentencing Court

161.705 Reduction of certain felonies to misdemeanors. (1) Notwithstanding ORS 161.525, the court may enter judgment of conviction for a Class A misdemeanor and make disposition accordingly when:

(a)(A) A person is convicted of any Class C felony; or

(B) A person convicted of a Class C felony, of possession or delivery of marijuana or a marijuana item as defined in ORS 475B.015 constituting a Class B felony, of possession of a controlled substance constituting a Class B felony or of a Class A felony pursuant to ORS 166.720, has successfully completed a sentence of probation; and

(b) The court, considering the nature and circumstances of the crime and the history and character of the defendant, believes that a felony conviction would be unduly harsh.

(2) The entry of judgment of conviction for a Class A misdemeanor under this section may be made:

(a) At the time of conviction, for offenses described in subsection (1)(a)(A) of this section; or

(b) At any time after the sentence of probation has been completed, for offenses described in subsection (1)(a)(B) of this section. [1971 c.743 §83; 1977 c.745 §31; 1979 c.124 §1; 1981 c.769 §8; 2005 c.708 §48; 2009 c.610 §2; 2013 c.591 §5; 2015 c.290 §2; 2015 c.614 §125; 2017 c.21 §100; 2018 c.120 §11]

161.710 Reduction of certain felony driving offenses after completion of sentence. Notwithstanding ORS 161.525, the court has authority, at any time after a sentence of probation has been completed, to enter judgment of conviction for a Class A misdemeanor for a person convicted of criminal driving while suspended or revoked under ORS 811.182 committed before September 1, 1999, and constituting a felony if:

(1) The suspension or revocation resulted from habitual offender status under ORS 809.640;

(2) The person successfully completed the sentence of probation; and

(3) The court finds that, considering the nature and circumstances of the crime and the history and character of the person, it would be unduly harsh for the person to continue to have a felony conviction. [2017 c.439 §2]

Chapter 163

OFFENSES AGAINST PERSONS

Homicide

163.005 Criminal homicide. (1) A person commits criminal homicide if, without justification or excuse, the person intentionally, knowingly, recklessly or with criminal negligence causes the death of another human being.

(2) "Criminal homicide" is murder, manslaughter, criminally negligent homicide or aggravated vehicular homicide.

(3) "Human being" means a person who has been born and was alive at the time of the criminal act. [1971 c.743 §87; 2007 c.867 §4]

163.095 "Aggravated murder" defined. As used in ORS 163.105 and this section, "aggravated murder" means:

(1) Criminal homicide of two or more persons that is premeditated and committed intentionally and with the intent to:

(a) Intimidate, injure or coerce a civilian population;

(b) Influence the policy of a government by intimidation or coercion; or

(c) Affect the conduct of a government through destruction of property, murder, kidnapping or aircraft piracy; or

(2) Murder in the second degree, as defined in ORS 163.115, that is:

(a)(A) Committed while the defendant was confined in a state, county or municipal penal or correctional facility or was otherwise in custody; and

(B) Committed after the defendant was previously convicted in any jurisdiction of any homicide, the elements of which constitute the crime of aggravated murder under this section or murder in the first degree under ORS 163.107;

(b) Premeditated and committed intentionally against a person under 14 years of age;

(c) Premeditated, committed intentionally against a police officer as defined in ORS 801.395, and related to the performance of the victim's official duties; or

(d) Premeditated, committed intentionally against a correctional, parole and probation officer or other person charged with the duty of custody, control or supervision of convicted persons, and related to the performance of the

victim's official duties. [1977 c.370 §1; 1981 c.873 §1; 1991 c.742 §13; 1991 c.837 §12; 1993 c.185 §20; 1993 c.623 §2; 1997 c.850 §1; 2005 c.264 §17; 2012 c.54 §26; 2015 c.614 §149; 2019 c.635 §1]

163.115 Murder in the second degree; affirmative defense to certain felony murders; sentence of life imprisonment required; minimum term. (1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide constitutes murder in the second degree:

(a) When it is committed intentionally, except that it is an affirmative defense that, at the time of the homicide, the defendant was under the influence of an extreme emotional disturbance;

(b) When it is committed by a person, acting either alone or with one or more persons, who commits or attempts to commit any of the following crimes and in the course of and in furtherance of the crime the person is committing or attempting to commit, or during the immediate flight therefrom, the person, or another participant if there be any, causes the death of a person other than one of the participants:

(A) Arson in the first degree as defined in ORS 164.325;

(B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;

(C) Burglary in the first degree as defined in ORS 164.225;

(D) Escape in the first degree as defined in ORS 162.165;

(E) Kidnapping in the second degree as defined in ORS 163.225;

(F) Kidnapping in the first degree as defined in ORS 163.235;

(G) Robbery in the first degree as defined in ORS 164.415;

(H) Any felony sexual offense in the first degree defined in this chapter;

(I) Compelling prostitution as defined in ORS 167.017; or

(J) Assault in the first degree, as defined in ORS 163.185, and the victim is under 14 years of age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and the victim is under 14 years of age; or

(c) By abuse when a person, recklessly under circumstances manifesting extreme indifference to the value of human life, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:

(A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or

(B) The person causes the death by neglect or maltreatment.

(2) An accusatory instrument alleging murder by abuse under subsection (1)(c) of this section need not allege specific incidents of assault or torture.

(3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the defendant:

(a) Was not the only participant in the underlying crime;

(b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid in the commission thereof;

(c) Was not armed with a dangerous or deadly weapon;

(d) Had no reasonable ground to believe that any other participant was armed with a dangerous or deadly weapon; and (e) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death.

(4) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that the victim was a dependent person who was at least 18 years of age and was under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person or the guardian of the dependent person.

(5) Except as otherwise provided in ORS 144.397 and 163.155:

(a) A person convicted of murder in the second degree, who was at least 15 years of age at the time of committing the murder, shall be punished by imprisonment for life.

(b) When a defendant is convicted of murder in the second degree under this section, the court shall order that the defendant shall be confined for a minimum of 25 years without possibility of parole, release to post prison supervision, release on work release or any form of temporary leave or employment at a forest or work camp.

(c) At any time after completion of a minimum period of confinement pursuant to paragraph (b) of this subsection, the State Board of Parole and Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue is whether the prisoner is likely to be rehabilitated within a reasonable period of time. At the hearing the prisoner has:

(A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time;

(B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the board, at board expense; and

(C) The right to a subpoena upon a showing of the general relevance and reasonable scope of

the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

(d) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board members or, if the chairperson requires all voting members to participate, a unanimous vote of all voting members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole, release to post-prison supervision or work release, it shall enter an order to that effect and the order shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release to post-prison supervision or work release and may set a release date. Otherwise, the board shall deny the relief sought in the petition.

(e) If the board denies the relief sought in the petition, the board shall determine the date of the subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS 144.285.

(f) The board's final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order.

(6) As used in this section:

(a) "Assault" means the intentional, knowing or reckless causation of physical injury to another person. "Assault" does not include the causation of physical injury in a motor vehicle accident that occurs by reason of the reckless conduct of a defendant.

(b) "Neglect or maltreatment" means a violation of ORS 163.535, 163.545 or 163.547 or a failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of a child under 14 years of age or a dependent person. This paragraph is not intended to replace or affect the duty or standard of care required under ORS chapter 677.

(c) "Pattern or practice" means one or more previous episodes.

(d) "Torture" means the intentional infliction of intense physical pain upon an unwilling victim as a separate objective apart from any other purpose. [1971 c.743 §88; 1975 c.577 §1; 1979 c.2 §1; 1981 c.873 §5; 1985 c.763 §1; 1989 c.985 §1; 1993 c.664 §1; 1995 c.421 §3; 1995 c.657 §1; 1997 c.850 §2; 1999 c.782 §4; 2007 c.717 §2; 2009 c.660 §7; 2009 c.785 §1; 2011 c.291 §1; 2015 c.820 §46; 2019 c.634 §28; 2019 c.635 §4]

163.118 Manslaughter in the first degree. (1) Criminal homicide constitutes manslaughter in the first degree when:

(a) It is committed recklessly under circumstances manifesting extreme indifference to the value of human life;

(b) It is committed intentionally by a defendant under the influence of extreme emotional disturbance as provided in ORS 163.135, which constitutes a mitigating circumstance reducing the homicide that would otherwise be murder to manslaughter in the first degree and need not be proved in any prosecution;

(c) A person recklessly causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:

(A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or

(B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115; or

(d) It is committed recklessly or with criminal negligence by a person operating a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 and:

(A) The person has at least three previous convictions for driving while under the influence of intoxicants under ORS 813.010, or its statutory counterpart in any jurisdiction, in the 10 years prior to the date of the current offense; or

(B)(i) The person has a previous conviction for any of the crimes described in subsection (2) of this section, or their statutory counterparts in any jurisdiction; and

(ii) The victim's serious physical injury in the previous conviction was caused by the person driving a motor vehicle.

(2) The previous convictions to which subsection (1)(d)(B) of this section applies are:

(a) Assault in the first degree under ORS 163.185;

(b) Assault in the second degree under ORS 163.175; or

(c) Assault in the third degree under ORS 163.165.

(3) Manslaughter in the first degree is a Class A felony.

(4) It is an affirmative defense to a charge of violating:

(a) Subsection (1)(c)(B) of this section that the victim was a dependent person who was at least 18 years of age and was under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person or the guardian of the dependent person.

(b) Subsection (1)(d)(B) of this section that the defendant was not under the influence of intoxicants at the time of the conduct that resulted in the previous conviction. [1975 c.577 §2; 1981 c.873 §6; 1997 c.850 §3; 2007 c.867 §2; 2011 c.291 §2]

163.125 Manslaughter in the second degree. (1) Criminal homicide constitutes manslaughter in the second degree when:

(a) It is committed recklessly;

(b) A person intentionally causes or aids another person to commit suicide; or

(c) A person, with criminal negligence, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:

(A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or

(B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115.

(2) Manslaughter in the second degree is a Class B felony. [1971 c.743 §89; 1975 c.577 §3; 1997 c.850 §4; 1999 c.954 §1]

163.145 Criminally negligent homicide.

(1) A person commits the crime of criminally negligent homicide when, with criminal negligence, the person causes the death of another person.

(2) Criminally negligent homicide is a Class B felony. [1971 c.743 §91; 2003 c.815 §2]

163.149 Aggravated vehicular homicide. (1) Criminal homicide constitutes aggravated vehicular homicide when it is committed with criminal negligence, recklessly or recklessly under circumstances manifesting extreme indifference to the value of human life by a person operating a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 and:

(a) The person has a previous conviction for any of the crimes described in subsection

(2) of this section, or their statutory counterparts in any jurisdiction; and

(b) The victim's death in the previous conviction was caused by the person driving a motor vehicle.

(2) The previous convictions to which subsection (1) of this section applies are:

(a) Manslaughter in the first degree under ORS 163.118;

(b) Manslaughter in the second degree under ORS 163.125; or

(c) Criminally negligent homicide under ORS 163.145.

(3) It is an affirmative defense to a prosecution under this section that the defendant was not under the influence of intoxicants at the time of the conduct that resulted in the previous conviction.

(4) Aggravated vehicular homicide is a Class A felony. [2007 c.867 §1]

Note: 163.149 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Assault and Related Offenses

163.160 Assault in the fourth degree.

(1) A person commits the crime of assault in the fourth degree if the person:

(a) Intentionally, knowingly or recklessly causes physical injury to another;

(b) With criminal negligence causes physical injury to another by means of a deadly weapon; or

(c) With criminal negligence causes serious physical injury to another who is a vulnerable user of a public way, as defined in ORS 801.608, by means of a motor vehicle.

(2) Assault in the fourth degree is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, assault in the fourth degree under subsection (1)(a) or (b) of this section is a Class C felony if the person commits the crime of assault in the fourth degree and:

(a) The assault is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim;

(b) The person has been previously convicted of violating this section or ORS 163.165, 163.175, 163.185, 163.187 or 163.190, or of committing an equivalent crime in another jurisdiction, and the victim in the previous conviction is the same person who is the victim of the current crime;

(c) The person has at least three previous convictions for violating this section or ORS 163.165, 163.175, 163.185, 163.187 or 163.190 or for committing an equivalent crime in another jurisdiction, in any combination; or

(d) The person commits the assault knowing that the victim is pregnant.

(4) For purposes of subsection (3) of this section, an assault is witnessed if the assault is seen or directly perceived in any other manner by the child. [1977 c.297 §5; 1997 c.694 §1; 1999 c.1073 §1; 2009 c.785 §3; 2015 c.639 §2; 2017 c.337 §1]

163.165 Assault in the third degree. (1) A person commits the crime of assault in the third degree if the person:

(a) Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon;

(b) Recklessly causes serious physical injury to another under circumstances manifesting extreme indifference to the value of human life;

(c) Recklessly causes physical injury to another by means of a deadly or dangerous

weapon under circumstances manifesting extreme indifference to the value of human life;

(d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a public transit vehicle while the operator is in control of or operating the vehicle. As used in this paragraph, "public transit vehicle" has the meaning given that term in ORS 166.116;

(e) While being aided by another person actually present, intentionally or knowingly causes physical injury to another;

(f) While committed to a youth correction facility, intentionally or knowingly causes physical injury to another knowing the other person is a staff member while the other person is acting in the course of official duty;

(g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical services provider, as defined in ORS 682.025, while the emergency medical services provider is performing official duties;

(h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child 10 years of age or younger;

(i) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a taxi while the operator is in control of the taxi; or

(j) Intentionally, knowingly or recklessly causes physical injury to a flagger or a highway worker while the flagger or highway worker is performing official duties.

(2)(a) Assault in the third degree is a Class C felony.

(b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under subsection (1)(a) or (b) of this section is a Class B felony if:

(A) The assault resulted from the operation of a motor vehicle; and

(B) The defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants.

(3) As used in this section:

(a) "Flagger" has the meaning given that term in ORS 811.230.

(b) "Highway worker" has the meaning given that term in ORS 811.230.

(c) "Staff member" means:

(A) A corrections officer as defined in ORS 181A.355, a youth correction officer, a youth correction facility staff member, a Department of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a contract with the department or youth authority to work with, or in the vicinity of, adults in custody, youth or youth offenders; and

(B) A volunteer authorized by the department, youth authority or other entity in charge of a corrections facility to work with, or in the vicinity of, adults in custody, youth or youth offenders.

(d) "Youth correction facility" has the meaning given that term in ORS 162.135. [1971 c.743 §92; 1977 c.297 §3; 1991 c.475 §1; 1991 c.564 §1; 1995 c.738 §1; 1997 c.249 §49; 1999 c.1011 §1; 2001 c.104 §50; 2001 c.830 §1; 2001 c.851 §4; 2009 c.660 §39; 2009 c.783 §3; 2011 c.529 §1; 2011 c.703 §27; 2017 c.658 §1; 2019 c.213 §119]

163.175 Assault in the second degree.

(1) A person commits the crime of assault in the second degree if the person:

(a) Intentionally or knowingly causes serious physical injury to another;

(b) Intentionally or knowingly causes physical injury to another by means of a deadly or dangerous weapon; or

(c) Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life.

(2) Assault in the second degree is a Class B felony. [1971 c.743 §93; 1975 c.626 §1; 1977 c.297 §2; 2005 c.22 §110]

163.185 Assault in the first degree. (1) A person commits the crime of assault in the first degree if the person:

(a) Intentionally causes serious physical injury to another by means of a deadly or dangerous weapon;

(b) Intentionally or knowingly causes serious physical injury to a child under six years of age;

(c) Violates ORS 163.175 knowing that the victim is pregnant; or

(d) Intentionally, knowingly or recklessly causes serious physical injury to another while operating a motor vehicle under the influence of intoxicants in violation of ORS 813.10 and:

(A) The person has at least three previous convictions for driving while under the influence of intoxicants under ORS 813.010, or its statutory counterpart in any jurisdiction, in the 10 years prior to the date of the current offense; or

(B)(i) The person has a previous conviction for any of the crimes described in subsection (2) of this section, or their statutory counterparts in any jurisdiction; and

(ii) The victim's death or serious physical injury in the previous conviction was caused by the person driving a motor vehicle.

(2) The previous convictions to which subsection (1)(d)(B) of this section apply are:

(a) Manslaughter in the first degree under ORS 163.118;

(b) Manslaughter in the second degree under ORS 163.125;

(c) Criminally negligent homicide under ORS 163.145;

(d) Assault in the first degree under this section;

(e) Assault in the second degree under ORS 163.175; or

(f) Assault in the third degree under ORS 163.165.

(3) Assault in the first degree is a Class A felony.

(4) It is an affirmative defense to a prosecution under subsection (1)(d)(B) of this section that the defendant was not under the influence of intoxicants at the time of the conduct that resulted in the previous conviction. [1971 c.743 §94; 1975 c.626 §2; 1977 c.297 §1; 2005 c.513 §1; 2007 c.867 §3; 2009 c.785 §2]

163.190 Menacing. (1) A person commits the crime of menacing if by word or conduct the person intentionally attempts to place another person in fear of imminent serious physical injury.

(2) Menacing is a Class A misdemeanor. [1971 c.743 §95]

163.195 Recklessly endangering another person. (1) A person commits the crime of recklessly endangering another person if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(2) Recklessly endangering another person is a Class A misdemeanor. [1971 c.743 §96]

163.196 Aggravated driving while suspended or revoked. (1) A person commits the crime of aggravated driving while suspended or revoked if the person operates a motor vehicle that causes serious physical injury to, or the death of, another person while knowingly violating ORS 811.175 or 811.182, if the suspension or revocation resulted from, or if the hardship permit violated is based upon a suspension or revocation that resulted from, a conviction for a criminal offense involving the use of a motor vehicle.

(2) Aggravated driving while suspended or revoked is a Class C felony.

(3) The Oregon Criminal Justice Commission shall classify aggravated driving while suspended or revoked as crime category 7 of the sentencing guidelines grid of the commission. [2009 c.783 §5; 2018 c.76 §3]

Note: 163.196 was added to and made a part of ORS chapter 163 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

Chapter 164

OFFENSES AGAINST PROPERTY

Theft and Related Offenses

164.015 "Theft" described. A person commits theft when, with intent to deprive another of property or to appropriate property to the person or to a third person, the person:

(1) Takes, appropriates, obtains or withholds such property from an owner thereof;

(2) Commits theft of property lost, mislaid or delivered by mistake as provided in ORS 164.065;

(3) Commits extortion as provided in ORS 164.075 by compelling or inducing another person to deliver property;

(4) Commits theft by deception as provided in ORS 164.085; or

(5) Commits theft by receiving as provided in ORS 164.095. [1971 c.743 §123; 2007 c.71 §47; 2016 c.47 §7]

164.043 Theft in the third degree. (1) A person commits the crime of theft in the third degree if:

(a) By means other than extortion, the person commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or an aggregate transaction is less than $100.

(2) Theft in the third degree is a Class C misdemeanor. [1987 c.907 §2; 2009 c.11 §11; 2009 c.16 §1]

164.045 Theft in the second degree. (1) A person commits the crime of theft in the second degree if:

(a) By means other than extortion, the person commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or aggregate transaction is $100 or more and less than $1,000.

(2) Theft in the second degree is a Class A misdemeanor. [1971 c.743 §124; 1987 c.907 §3; 1993 c.680 §19; 2009 c.11 §12; 2009 c.16 §2]

164.055 Theft in the first degree. (1) A person commits the crime of theft in the first degree if, by means other than extortion, the person commits theft as defined in ORS 164.15 and:

(a) The total value of the property in a single or aggregate transaction is $1,000 or more;

(b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an area affected by the riot, fire, explosion, catastrophe or other emergency;

(c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the security of the property;

(d) The subject of the theft is a firearm or explosive;

(e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c); or

(f) The subject of the theft is a precursor substance.

(2) As used in this section:

(a) "Companion animal" means a dog or cat possessed by a person, business or other entity for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability.

(b) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(c) "Firearm" has the meaning given that term in ORS 166.210.

(d) "Livestock animal" means a ratite, psittacine, horse, gelding, mare, filly, stallion, colt, mule, ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.

(e) "Precursor substance" has the meaning given that term in ORS 475.940.

(3) Theft in the first degree is a Class C felony. [1971 c.743 §125; 1973 c.405 §1; 1983 c.740 §32; 1987 c.907 §4; 1991 c.837 §9; 1993 c.252 §5; 1993 c.680 §20; 2005 c.706 §10; 2009 c.16 §3; 2009 c.610 §6; 2013 c.24 §11]

164.057 Aggravated theft in the first degree. (1) A person commits the crime of aggravated theft in the first degree, if:

(a) The person violates ORS 164.055 with respect to property, other than a motor vehicle used primarily for personal rather than commercial transportation; and

(b) The value of the property in a single or aggregate transaction is $10,000 or more.

(2) Aggravated theft in the first degree is a Class B felony. [1987 c.907 §5]

164.061 Sentence for aggravated theft in the first degree when victim 65 years of age or older. When a person is convicted of aggravated theft in the first degree under ORS 164.057, the court shall sentence the person to a term of incarceration ranging from 16 months to 45 months, depending on the person's criminal history, if:

(1) The victim of the theft was 65 years of age or older at the time of the commission of the offense; and

(2) The value of the property stolen from the victim described in subsection (1) of this section, in a single or aggregate transaction, is $10,000 or more. [2008 c.14 §4]

Note: 164.061 was enacted into law but was not added to or made a part of ORS chapter 164 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

164.135 Unauthorized use of a vehicle.

(1) A person commits the crime of unauthorized use of a vehicle when:

(a)(A) The person knowingly takes, operates, exercises control over or otherwise uses another's vehicle, boat or aircraft;

(B) The person is aware of and consciously disregards a substantial and unjustifiable risk that the owner of the vehicle, boat or aircraft does not consent to the taking, operation or other use of, or the exercise of control over, the vehicle, boat or aircraft; and

(C) The owner of the vehicle, boat or aircraft did not consent to the taking, operation or other use of, or the exercise of control over, the vehicle, boat or aircraft;

(b)(A) The person knowingly rides in another's vehicle, boat or aircraft;

(B) The person knows that the owner of the vehicle, boat or aircraft does not consent to the person's riding in the vehicle, boat or aircraft; and

(C) The owner or an authorized user of the vehicle, boat or aircraft did not consent to the person's riding in the vehicle, boat or aircraft;

(c) Having custody of a vehicle, boat or aircraft pursuant to an agreement between the person or another and the owner thereof whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such vehicle, boat or aircraft, the person intentionally uses or operates it, without consent of the owner, for the person's own purpose in a manner constituting a gross deviation from the agreed purpose; or

(d) Having custody of a vehicle, boat or aircraft pursuant to an agreement with the owner thereof whereby such vehicle, boat or aircraft is to be returned to the owner at a specified time, the person knowingly retains or withholds possession thereof without consent of the owner for so lengthy a period beyond the specified time as to render such retention or possession a gross deviation from the agreement.

(2) Unauthorized use of a vehicle, boat or aircraft is a Class C felony.

(3) Subsection (1)(a) and (b) of this section does not apply to a person who rides in or

otherwise uses a public transit vehicle, as defined in ORS 166.116, if the vehicle is being operated by an authorized operator within the scope of the operator's employment. [1971 c.743 §134; 2001 c.851 §1; 2007 c.71 §50; 2019 c.530 §1]

Burglary and Criminal Trespass

164.245 Criminal trespass in the second d164.245 Criminal trespass in the second degree. (1) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully in a motor vehicle or in or upon premises.

(2) Criminal trespass in the second degree is a Class C misdemeanor. [1971 c.743 §139; 1999 c.1040 §9]

164.272 Unlawful entry into a motor vehicle. (1) A person commits the crime of unlawful entry into a motor vehicle if the person enters a motor vehicle, or any part of a motor vehicle, with the intent to commit a crime.

(2) Unlawful entry into a motor vehicle is a Class A misdemeanor.

(3) As used in this section, "enters" includes, but is not limited to, inserting:

(a) Any part of the body; or

(b) Any object connected with the body. [1995 c.782 §1]

Note: 164.272 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Criminal Mischief

164.345 Criminal mischief in the third degree. (1) A person commits the crime of criminal mischief in the third degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right, the person tampers or interferes with property of another.

(2) Criminal mischief in the third degree is a Class C misdemeanor. [1971 c.743 §145]

164.354 Criminal mischief in the second degree. (1) A person commits the crime of criminal mischief in the second degree if:

(a) The person violates ORS 164.345, and as a result thereof, damages property in an amount exceeding $500; or

(b) Having no right to do so nor reasonable ground to believe that the person has such right, the person intentionally damages property of another, or, the person recklessly damages property of another in an amount exceeding $500.

(2) Criminal mischief in the second degree is a Class A misdemeanor. [1971 c.743 §146; 2009 c.16 §5]

164.365 Criminal mischief in the first degree. (1) A person commits the crime of criminal mischief in the first degree who, with intent to damage property, and having no right to do so nor reasonable ground to believe that the person has such right:

(a) Damages or destroys property of another:

(A) In an amount exceeding $1,000;

(B) By means of an explosive;

(C) By starting a fire in an institution while the person is committed to and confined in the institution;

(D) Which is a livestock animal as defined in ORS 164.055;

(E) Which is the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public; or

(F) By intentionally interfering with, obstructing or adulterating in any manner the service of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility; or

(b) Intentionally uses, manipulates, arranges or rearranges the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public so as to interfere with its efficiency.

(2) As used in subsection (1) of this section:

(a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile detention facilities and state training schools.

(b) "Medical facility" means a health care facility as defined in ORS 442.015, a licensed physician's office or anywhere a licensed medical practitioner provides health care services.

(c) "Public utility" has the meaning provided for that term in ORS 757.005 and includes any cooperative, people's utility district or other municipal corporation providing an electric, gas, water or other utility service.

(d) "Railroad" has the meaning provided for that term in ORS 824.020.

(e) "Public transportation facility" means any property, structure or equipment used for or in connection with the transportation of persons for hire by rail, air or bus, including any railroad cars, buses or airplanes used to carry out such transportation.

(f) "Telecommunications carrier" has the meaning given that term in ORS 133.721.

(3) Criminal mischief in the first degree is a Class C felony. [1971 c.743 §147; 1973 c.133 §6; 1975 c.344 §1; 1979 c.805 §1; 1983 c.740 §33a; 1987 c.447 §104; 1987 c.907 §10; 1989 c.584 §2; 1991 c.837 §13; 1991 c.946 §2; 1993 c.94 §1; 1993

c.332 §3; 1999 c.1040 §11; 1999 c.1093 §2; 2003 c.543 §4; 2009 c.16 §6]

Robbery

164.395 Robbery in the third degree. (1) A person commits the crime of robbery in the third degree if in the course of committing or attempting to commit theft or unauthorized use of a vehicle as defined in ORS 164.135 the person uses or threatens the immediate use of physical force upon another person with the intent of:

(a) Preventing or overcoming resistance to the taking of the property or to retention thereof immediately after the taking; or

(b) Compelling the owner of such property or another person to deliver the property or to engage in other conduct which might aid in the commission of the theft or unauthorized use of a vehicle.

(2) Robbery in the third degree is a Class C felony. [1971 c.743 §148; 2003 c.357 §1]

164.405 Robbery in the second degree. (1) A person commits the crime of robbery in the second degree if the person violates ORS 164.395 and the person:

(a) Represents by word or conduct that the person is armed with what purports to be a dangerous or deadly weapon; or

(b) Is aided by another person actually present.

(2) Robbery in the second degree is a Class B felony. [1971 c.743 §149]

164.415 Robbery in the first degree. (1) A person commits the crime of robbery in the first degree if the person violates ORS 164.395 and the person:

(a) Is armed with a deadly weapon;

(b) Uses or attempts to use a dangerous weapon; or

(c) Causes or attempts to cause serious physical injury to any person.

(2) Robbery in the first degree is a Class A felony. [1971 c.743 §150; 2007 c.71 §51]

Littering

164.775 Deposit of trash within 100 yards of waters or in waters; license suspensions; civil penalties; credit for work in lieu of fine. (1) It is unlawful for any person to discard any glass, cans or other trash, rubbish, debris or litter on land within 100 yards of any of the waters of the state, as defined in ORS 468B.005, other than in receptacles provided for the purpose of holding such trash, rubbish, debris or litter.

(2) It is unlawful for any person to discard any glass, cans or other similar refuse in any waters of the state, as defined in ORS 468B.005.

(3) In addition to or in lieu of the penalties provided for violation of any provision of this section, the court in which any individual is convicted of a violation of this section may order suspension of certain permits or licenses for a period not to exceed 90 days if the court finds that the violation occurred during or in connection with the exercise of the privilege granted by the permit or license. The permits and licenses to which this section applies are hunting licenses, fishing licenses or boat registrations.

(4)(a) Any person sentenced under subsection (6) of this section to pay a fine for violation of this section shall be permitted, in default of the payment of the fine, to work at clearing rubbish, trash and debris from the lands and waters described by subsections (1) and (2) of this section. Credit in compensation for such work shall be allowed at the rate of $25 for each day of work.

(b) In any case, upon conviction, if punishment by imprisonment is imposed upon the defendant, the form of the sentence shall include that the defendant shall be punished by confinement at labor clearing rubbish, trash and debris from the lands and waters described by subsections (1) and (2) of this section, for not less than one day nor more than five days.

(5) A citation conforming to the requirements of ORS 133.066 shall be used for all violations of subsection (1) or (2) of this section in the state.

(6) Violation of this section is a Class B misdemeanor.

(7) In addition to and not in lieu of the criminal penalty authorized by subsection (6) of this section, the civil penalty authorized by ORS 468.140 may be imposed for violation of this section.

(8) Nothing in this section or ORS 164.785 prohibits the operation of a disposal site, as defined in ORS 459.005, for which a permit is required by the Department of Environmental Quality, for which such a permit has been issued and which is being operated and maintained in accordance with the terms and conditions of such permit. [Formerly 449.107; 1999 c.1051 §132; 2018 c.76 §18]

164.785 Placing offensive substances in waters, on highways or other property. (1)(a) It is unlawful for any person, including a person in the possession or control of any land, to discard any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance into or in any other manner befoul, pollute or impair the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern or pond of water.

(b)(A) In a prosecution under this subsection, it is a defense that:

(i) The dead animal carcass that is discarded is a fish carcass;

(ii) The person returned the fish carcass to the water from which the person caught the fish; and

(iii) The person retained proof of compliance with any provisions regarding angling prescribed by the State Fish and Wildlife Commission pursuant to ORS 496.162.

(B) As used in this paragraph, "fish carcass" means entrails, gills, head, skin, fins and backbone.

(2) It is unlawful for any person to place or cause to be placed any polluting substance listed in subsection (1) of this section into any road, street, alley, lane, railroad right of way, lot, field, meadow or common. It is unlawful for an owner thereof to knowingly permit any polluting substances to remain in any of the places described in this subsection to the injury of the health or to the annoyance of any citizen of this state. Every 24 hours after conviction for violation of this subsection during which the violator permits the polluting substances to remain is an additional offense against this subsection.

(3) Nothing in this section shall apply to the storage or spreading of manure or like substance for agricultural, silvicultural or horticultural purposes, except that no sewage sludge, septic tank or cesspool pumpings shall be used for these purposes unless treated and applied in a manner approved by the Department of Environmental Quality.

(4) Violation of this section is a Class A misdemeanor.

(5) The Department of Environmental Quality may impose the civil penalty authorized by ORS 468.140 for violation of this section. [Formerly 449.105; 1983 c.257 §1; 1987 c.325 §1; 2013 c.132 §1]

164.805 Offensive littering. (1) A person commits the crime of offensive littering if the person creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way or in or upon any public transportation facility;

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle that the person is operating. This subsection does not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Department of Transportation or a person operating a school bus described under ORS 801.460.

(2) As used in this section:

(a) "Public transportation facility" has the meaning given that term in ORS 164.365.

(b) "Public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality for use by the general public.

(3) Offensive littering is a Class C misdemeanor. [1971 c.743 §283; 1975 c.344 §2; 1983 c.338 §897; 1985 c.420 §20; 2007 c.71 §52; 2015 c.138 §2]

Chapter 165

MISREPRESENTATION OF AGE BY MINOR

165.805 Misrepresentation of age by a minor. (1) A person commits the crime of misrepresentation of age by a minor if:

(a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

(b) Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.

(2) Misrepresentation of age by a minor is a Class C misdemeanor.

(3)(a) In addition to and not in lieu of any other penalty established by law, if a person, using a driver permit or license or other identification issued by the Department of Transportation of this state or its equivalent in another state, commits the crime of misrepresentation of age by a minor in order to purchase or consume alcoholic liquor or cannabis:

(A) The person may be required to perform community service; and

(B) The court may order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year upon:

(i) The person's second or subsequent conviction or adjudication for an offense described in this paragraph;

(ii) The person's first conviction or adjudication if the person has previously entered into a formal accountability agreement under ORS 419C.230 for an offense described in this paragraph; or

(iii) The person's first conviction or adjudication if the offense involved the operation of a motor vehicle.

(b) If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the department under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(4) The prohibitions of this section do not apply to any person acting under the direction of the Oregon Liquor Control Commission or a regulatory specialist or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages or marijuana items, as defined in ORS 475B.015, to persons who are under a certain, specified age.

(5) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages or marijuana items, as defined in ORS 475B.015, to persons who are under the age of 21 years. [1971 c.743 §285; 1991 c.860 §1; 1993 c.18 §25; 2001 c.791 §3; 2011 c.355 §19; 2012 c.54 §28; 2015 c.614 §150; 2018 c.76 §19]

Chapter 166

FIREARMS AND OTHER WEAPONS

Possession and Use of Weapons

166.250 Unlawful possession of fire166.250 Unlawful possession of firearms. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.273, 166.274, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:

(a) Carries any firearm concealed upon the person;

(b) Possesses a handgun that is concealed and readily accessible to the person within any vehicle; or

(c) Possesses a firearm and:

(A) Is under 18 years of age;

(B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470; and

(ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section;

(C) Has been convicted of a felony;

(D) Was committed to the Oregon Health Authority under ORS 426.130;

(E) Was found to be a person with mental illness and subject to an order under ORS

426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(F) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm;

(G) Has been found guilty except for insanity under ORS 161.295 of a felony; or

(H) The possession of the firearm by the person is prohibited under ORS 166.255.

(2) This section does not prohibit:

(a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from possessing a firearm:

(A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian; or

(B) Temporarily for hunting, target practice or any other lawful purpose; or

(b) Any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270 and subsection (1) of this section, from owning, possessing or keeping within the person's place of residence or place of business any handgun, and no permit or license to purchase, own, possess or keep any such firearm at the person's place of residence or place of business is required of any such citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle while used, for whatever period of time, as residential quarters.

(3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

(4)(a) Except as provided in paragraphs

(b) and (c) of this subsection, a handgun is readily accessible within the meaning of this section if the handgun is within the passenger compartment of the vehicle.

(b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage location that is outside the passenger compartment of the vehicle, a handgun is not readily accessible within the meaning of this section if:

(A) The handgun is stored in a closed and locked glove compartment, center console or other container; and

(B) The key is not inserted into the lock, if the glove compartment, center console or other container unlocks with a key.

(c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not readily accessible within the meaning of this section if:

(A) The handgun is in a locked container within or affixed to the vehicle; or

(B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the discharge of the firearm.

(5) Unlawful possession of a firearm is a Class A misdemeanor. [Amended by 1979 c.779 §4; 1985 c.543 §3; 1989 c.839 §13; 1993 c.732 §1; 1993 c.735 §12; 1999 c.1040 §1; 2001 c.666 §§33,45; 2003 c.614 §8; 2009 c.499 §1; 2009 c.595 §112; 2009 c.826 §§8a,11a; 2011 c.662 §§1,2; 2013 c.360 §§6,7; 2015 c.50 §§12,13; 2015 c.201 §3; 2015 c.497 §§3,4]

166.255 Possession of firearm or ammunition by certain persons prohibited.

(1) It is unlawful for a person to knowingly possess a firearm or ammunition if:

(a) The person is the subject of a court order that:

(A)(i) Was issued or continued after a hearing for which the person had actual notice and during the course of which the person had an opportunity to be heard; or

(ii) Was issued, continued or remains in effect, by order or operation of law, after the person received notice of the opportunity to request a hearing in which to be heard on the order, and either requested a hearing but did not attend the hearing or withdrew the request before the hearing occurred, or did not request a hearing during the time period in which the opportunity was available;

(B) Restrains the person from stalking, intimidating, molesting or menacing a family or household member of the person, a child of a family or household member of the person or a child of the person; and

(C) Includes a finding that the person represents a credible threat to the physical safety of a family or household member of the person, a child of a family or household member of the person or a child of the person;

(b) The person has been convicted of a qualifying misdemeanor and, at the time of the offense, the person was:

(A) A family or household member of the victim of the offense; or

(B) A parent or guardian of the victim of the offense; or

(c) The person has been convicted of stalking under ORS 163.732.

(2) The prohibition described in subsection (1)(a) of this section does not apply with respect to the transportation, shipment, receipt, possession or importation of any firearm or ammunition imported for, sold or shipped to or issued for the use of the United States Government or any federal department or agency, or any state or department, agency or political subdivision of a state.

(3) As used in this section:

(a) "Convicted" means:

(A) The person was represented by counsel or knowingly and intelligently waived the right to counsel;

(B) The case was tried to a jury, if the crime was one for which the person was entitled to a jury trial, or the person knowingly and intelligently waived the person's right to a jury trial; and

(C) The conviction has not been set aside or expunged, and the person has not been pardoned.

(b) "Deadly weapon" has the meaning given that term in ORS 161.015.

(c) "Family or household member" has the meaning given that term in ORS 135.230.

(d) "Possess" has the meaning given that term in ORS 161.015.

(e) "Qualifying misdemeanor" means a misdemeanor that has, as an element of the offense, the use or attempted use of physical force or the threatened use of a deadly weapon. [2015 c.497 §2; 2018 c.5 §1; 2019 c.201 §1]

166.260 Persons not affected by ORS 166.250. (1) ORS 166.250 does not apply to or affect:

(a) A parole and probation officer, police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(d) Any person summoned by an officer described in paragraph (a) or (b) of this subsection to assist in making arrests or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) The possession or transportation by any merchant of unloaded firearms as merchandise.

(f) Active or reserve members of:

(A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty;

(B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

(C) The Public Health Service of the United States Department of Health and Human Services, when detailed by proper authority for duty with the Army or Navy of the United States.

(g) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

(h) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

(i) A person who is licensed under ORS

166.291 and 166.292 to carry a concealed handgun.

(2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has been granted relief from the disability under ORS 166.274.

(3) Except for persons who are otherwise prohibited from possessing a firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

(a) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

(4) The exceptions listed in subsection (1)(d) to (i) of this section constitute affirmative defenses to a charge of violating ORS 166.250. [Amended by 1977 c.207 §1; 1991 c.67 §36; 1993 c.735 §1; 1995 c.670 §2; 1999 c.1040 §3; 2009 c.316 §2; 2009 c.499 §4; 2012 c.106 §3; 2015 c.709 §2]

Possession of Weapon or Destructive Device in Public Building or Court Facility

166.360 Definitions for ORS 166.360 to 166.380. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the State Office Building, the State Library Building, the Labor and Industries Building, the State Transportation Building, the Agriculture Building or the Public Service Building and includes any new buildings which may be constructed on the same grounds as an addition to the group of buildings listed in this subsection.

(2) "Court facility" means a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.

(3) "Judge" means a judge of a circuit court, the Court of Appeals, the Supreme Court, the Oregon Tax Court, a municipal court, a probate court or a juvenile court or a justice of the peace.

(4) "Judicial district" means a circuit court district established under ORS 3.012 or a justice of the peace district established under ORS 51.020.

(5) "Juvenile court" has the meaning given that term in ORS 419A.004.

(6) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the firearm.

(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot or projectile in the barrel or cylinder.

(7) "Local court facility" means the portion of a building in which a justice court, a municipal court, a probate court or a juvenile court conducts business, during the hours in which the court operates.

(8) "Probate court" has the meaning given that term in ORS 111.005.

(9) "Public building" means a hospital, a capitol building, a public or private school, as defined in ORS 339.315, a college or university, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or a municipal corporation, as defined in ORS 297.405, other than a court facility.

(10) "Weapon" means:

(a) A firearm;

(b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife, other than an ordinary pocketknife with a blade less than four inches in length, the use of which could inflict injury upon a person or property;

(c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

(d) An electrical stun gun or any similar instrument;

(e) A tear gas weapon as defined in ORS 163.211;

(f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or

any similar instrument, the use of which could inflict injury upon a person or property; or

(g) A dangerous or deadly weapon as those terms are defined in ORS 161.015. [1969 c.705 §1; 1977 c.769 §2; 1979 c.398 §1; 1989 c.982 §4; 1993 c.741 §2; 1999 c.577 §2; 1999 c.782 §6; 2001 c.201 §1; 2015 c.351 §1]

166.370 Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

(A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement officer.

(B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon to a law enforcement officer or to immediately remove it from the court facility. A person who fails to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

(C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to the offense, the presiding judge of the local court facility entered an order prohibiting firearms in the area in which the court conducts business and during the hours in which the court operates.

(b) The presiding judge of a judicial district or a municipal court may enter an order permitting the possession of specified weapons in a court facility.

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not enter an order concerning the possession of weapons in the court facility that is in conflict with an order entered by the presiding judge of the circuit court.

(3) Subsection (1) of this section does not apply to:

(a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation officer is acting within the scope of employment.

(c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) An honorably retired law enforcement officer.

(f) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.

(g) A person who is licensed under ORS

166.291 and 166.292 to carry a concealed handgun.

(h) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.

(i) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

(j) Possession of a firearm on school property if the firearm:

(A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

(B) Is unloaded and locked in a motor vehicle.

(4)(a) The exceptions listed in subsection (3)(d) to (j) of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.

(b) A person may not use the affirmative defense described in subsection (3)(e) of this section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.

(b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

(A) As part of a program approved by a school in the school by an individual who is participating in the program;

(B) By a law enforcement officer acting in the officer's official capacity; or

(C) By an employee of the United States Department of Agriculture, acting within the scope of employment, in the course of the lawful taking of wildlife.

(6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.279.

(7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a violation of both subsections (1) and (5) of this

section, the district attorney may charge the person with only one of the offenses.

(8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015. [1969 c.705 §§2,4; 1977 c.207 §2; 1979 c.398 §2; 1989 c.839 §22; 1989 c.982 §5; 1991 c.67 §39; 1993 c.625 §1; 1999 c.782 §7; 1999 c.1040 §4; 2001 c.666 §§24,36; 2003 c.614 §6; 2009 c.556 §6; 2015 c.351 §2; 2015 c.709 §4]

166.373 Possession of weapon in court facility by peace officer or federal officer.

(1) Notwithstanding ORS 166.370 (2) and except as provided in subsection (2) of this section, a peace officer, as defined in ORS 161.015, or a federal officer, as defined in ORS 133.005, may possess a weapon in a court facility if the officer:

(a) Is acting in an official capacity and is officially on duty;

(b) Is carrying a weapon that the employing agency of the officer has authorized the officer to carry; and

(c) Is in compliance with any security procedures established under subsections (3) and (4) of this section.

(2) A judge may prohibit a peace officer or a federal officer from possessing a weapon in a courtroom. A notice of the prohibition of the possession of a weapon by an officer in a courtroom must be posted outside the entrance to the courtroom.

(3) A presiding judge of a judicial district or a municipal court or the Chief Justice of the Supreme Court may establish procedures regulating the possession of a weapon in a court facility by a peace officer or a federal officer subject to the following:

(a) The procedures for a circuit court must be established through a plan for court security improvement, emergency preparedness and business continuity under ORS 1.177 or 1.180;

(b) The procedures for a justice court or a municipal court may only prohibit the possession of weapons within the area in which the court conducts business and during the hours in which the court operates;

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not establish procedures in conflict with the procedures established by the presiding judge of the circuit court; and

(d) Notice of the procedures must be posted at the entrance to the court facility, or at an entrance for peace officers or federal officers if the entrance is separate from the entrance to the court facility, and at a security checkpoint in the court facility.

(4) A judge may establish procedures regulating the possession of a weapon in a courtroom by a peace officer or a federal officer. A notice of the procedures regulating the possession of a weapon by an officer must be posted outside the entrance to the courtroom. [2001 c.201 §3; 2005 c.804 §7; 2015 c.351 §3]

Discharging Weapons

166.630 Discharging weapon on or across highway, ocean shore recreation area or public utility facility. (1) Except as provided in ORS 166.220, any person is guilty of a violation who discharges or attempts to discharge any blowgun, bow and arrow, crossbow, air rifle or firearm:

(a) Upon or across any highway, railroad right of way or other public road in this state, or upon or across the ocean shore within the state recreation area as defined in ORS 390.605.

(b) At any public or railroad sign or signal or an electric power, communication, petroleum or natural gas transmission or distribution facility of a public utility, telecommunications utility or railroad within range of the weapon.

(2) Any blowgun, bow and arrow, crossbow, air rifle or firearm in the possession of the person that was used in committing a violation of this section may be confiscated and forfeited to the State of Oregon. This section does not prevent:

(a) The discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation.

(b) The discharge of firearms by an employee of the United States Department of Agriculture acting within the scope of employment in the course of the lawful taking of wildlife.

(3) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty and forfeiture provided in subsections (1) and (2) of this section.

(4) As used in this section:

(a) "Public sign" includes all signs, signals and markings placed or erected by authority of a public body.

(b) "Public utility" has the meaning given that term in ORS 164.365 (2).

(c) "Railroad" has the meaning given that term in ORS 824.020. [Amended by 1963 c.94 §1; 1969 c.501 §2; 1969 c.511 §4; 1973 c.196 §1; 1973 c.723 §118; 1981 c.900 §1; 1987 c.447 §113; 1991 c.797 §2; 2009 c.556 §7]

166.635 Discharging weapon or throwing objects at trains. (1) A person shall not knowingly throw an object at, drop an object on, or discharge a bow and arrow, air rifle, rifle, gun, revolver or other firearm at a railroad train, a person on a railroad train or a commodity being transported on a railroad train. This subsection does not prevent a peace officer or a railroad

employee from performing the duty of a peace officer or railroad employee.

(2) Violation of subsection (1) of this section is a misdemeanor. [1973 c.139 §4]

166.638 Discharging weapon across airport operational surfaces. (1) Any person who knowingly or recklessly discharges any bow and arrow, gun, air gun or other firearm upon or across any airport operational surface commits a Class A misdemeanor. Any bow and arrow, gun, air gun or other firearm in the possession of the person that was used in committing a violation of this subsection may be confiscated and forfeited to the State of Oregon, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund.

(2) As used in subsection (1) of this section, "airport operational surface" means any surface of land or water developed, posted or marked so as to give an observer reasonable notice that the surface is developed for the purpose of storing, parking, taxiing or operating aircraft, or any surface of land or water when actually being used for such purpose.

(3) Subsection (1) of this section does not prohibit the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation, or otherwise lawful hunting, wildlife control or other discharging of firearms done with the consent of the proprietor, manager or custodian of the airport operational surface.

(4) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty provided in subsection (1) of this section. [1981 c.901 §2; 1987 c.858 §2]

Miscellaneous

166.649 Throwing an object off an overpass in the second degree. (1) A person commits the crime of throwing an object off an overpass in the second degree if the person:

(a) With criminal negligence throws an object off an overpass; and

(b) Knows, or reasonably should have known, that the object was of a type or size to cause damage to any person or vehicle that the object might hit.

(2) Throwing an object off an overpass in the second degree is a Class A misdemeanor.

(3) As used in this section and ORS 166.651, "overpass" means a structure carrying a roadway or pedestrian pathway over a roadway. [1993 c.731 §1]

166.651 Throwing an object off an overpass in the first degree. (1) A person commits the crime of throwing an object off an overpass in the first degree if the person:

(a) Recklessly throws an object off an overpass; and

(b) Knows, or reasonably should have known, that the object was of a type or size to cause damage to any person or vehicle that the object might hit.

(2) Throwing an object off an overpass in the first degree is a Class C felony. [1993 c.731 §2]

166.663 Casting artificial light from vehicle while possessing certain weapons prohibited. (1) A person may not cast from a motor vehicle an artificial light while there is in the possession or in the immediate physical presence of the person a bow and arrow or a firearm.

(2) Subsection (1) of this section does not apply to a person casting an artificial light:

(a) From the headlights of a motor vehicle that is being operated on a road in the usual manner.

(b) When the bow and arrow or firearm that the person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of the motor vehicle.

(c) When the ammunition or arrows are stored separate from the weapon.

(d) On land owned or lawfully occupied by that person.

(e) On publicly owned land when that person has an agreement with the public body to use that property.

(f) When the person is a peace officer, or is a government employee engaged in the performance of official duties.

(g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a concealed handgun.

(h) When the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(3) A peace officer may issue a citation to a person for a violation of subsection (1) of this section when the violation is committed in the presence of the peace officer or when the peace officer has probable cause to believe that a violation has occurred based on a description of the vehicle or other information received from a peace officer who observed the violation.

(4) Violation of subsection (1) of this section is punishable as a Class B violation.

(5) As used in this section, "peace officer" has the meaning given that term in ORS 161.015. [1989 c.848 §2; 1999 c.1051 §159; 2005 c.22 §116; 2009 c.610 §3; 2015 c.709 §5]

Chapter 184

DEPARTMENT OF TRANSPORTATION OPERATING FUND

184.622 Authority of Department of Transportation to require fingerprints. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Department of Transportation may require the fingerprints of a person who is applying for a license, or renewal of a license, under ORS 319.040 or 319.621 or a person who:

(1)(a) Is employed or applying for employment by the department; or

(b) Provides services or seeks to provide services to the department as a contractor or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state; or

(c) In which the person has access to personal information about employees or members of the public including Social Security numbers, dates of birth, driver license numbers, personal financial information or criminal background information. [2005 c.730 §10]

Note: 184.622 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 184 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

184.642 Department of Transportation Operating Fund; sources; uses. (1) The Department of Transportation Operating Fund is established in the State Treasury separate and distinct from the General Fund and separate and distinct from the State Highway Fund. Except as otherwise provided in subsection (3)(e) of this section, moneys in the Department of Transportation Operating Fund are continuously appropriated to the Department of Transportation to pay expenses of the department that are incurred in the performance of functions the department is statutorily required or authorized to perform and that may not constitutionally be paid from revenues described in section 3a, Article IX of the Oregon Constitution.

(2) The operating fund shall consist of the following:

(a) Taxes paid on motor vehicle fuels or on the use of fuel in a motor vehicle for which a person is entitled to a refund under a provision described in this paragraph but for which no refund is claimed, in amounts determined under ORS 184.643. This paragraph applies to refund entitlements described in ORS 319.280 (1)(a) and (e), 319.320 (1)(a) and 319.831 (1)(b).

(b) Fees collected under ORS 822.700 for issuance or renewal of:

(A) Dismantler certificates;

(B) Vehicle dealer certificates;

(C) Show licenses;

(D) Vehicle transporter certificates;

(E) Driver training instructor certificates;

(F) Commercial driver training school certificates; and

(G) Vehicle appraiser certificates.

(c) Late fees collected under ORS 822.700.

(d) Fees collected under ORS 822.705.

(e) Moneys from civil penalties imposed under ORS 822.009.

(f) Fees collected under ORS 807.410 for identification cards.

(g) Fees collected by the department for issuance of permits to engage in activities described in ORS 374.302 to 374.334 that are not directly connected to the construction, reconstruction, improvement, repair, maintenance, operation and use of a public highway, road, street or roadside rest area.

(h) Fees collected under ORS 835.017 for services provided to the Oregon Department of Aviation.

(i) Interest and other earnings on moneys in the operating fund.

(3) Moneys in the Department of Transportation Operating Fund established by subsections (1) and (2) of this section may be spent only as follows:

(a) Taxes described in subsection (2)(a) of this section may be used only for payment of expenses of the Department of Transportation that:

(A) May not constitutionally be paid from revenues described in section 3a, Article IX of the Oregon Constitution;

(B) Are incurred in the performance of functions the department is statutorily required or authorized to perform; and

(C) Are not payable from moneys described in paragraphs (b) to (e) of this subsection.

(b) Fees collected under subsection (2)(b) of this section may be used only to carry out the regulatory functions of the department relating to the businesses that generate the fees.

(c) Fees collected under ORS 822.705 may be used only for the purposes described in ORS 822.705.

(d) Moneys collected from civil penalties imposed under ORS 822.009 may be used only for regulation of vehicle dealers.

(e) Moneys collected under ORS 807.410 from fees for identification cards shall be used first to pay the expenses of the department for performing the functions of the department relating to identification cards. After paying the expenses related to identification cards, the department shall transfer the remaining moneys collected under ORS 807.410 to the Elderly and Disabled Special Transportation Fund established in ORS 391.800.

(f) Moneys from the permits described in subsection (2)(g) of this section may be used for costs of issuing the permits and monitoring the activities that generate the fees.

(g) Moneys from interest and other earnings on moneys in the operating fund may be used for any purpose for which other moneys in the fund may be used. [2001 c.820 §§1,2; 2003 c.601 §1; 2003 c.655 §62; 2005 c.654 §§22,23; 2011 c.630 §34; 2013 c.372 §4]

Note: 184.642 and 184.643 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 184 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

184.643 Transfer of certain fuel tax moneys to operating fund. Once each year the Oregon Department of Administrative Services, after consultation with the Oregon Transportation Commission and the Department of Transportation, shall estimate the amount of taxes paid for which persons are entitled to refunds under ORS 319.280 (1)(a) and (e), 319.320 (1)(a) and 319.831 (1)(b). After deducting the amount of any refunds actually paid, the Oregon Department of Administrative Services shall certify the remaining amount to the Department of Transportation. The Department of Transportation shall transfer the remaining amount from the Driver and Motor Vehicle Suspense Account to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2). [2001 c.820 §3; 2003 c.16 §1]

Note: See note under 184.642.

Chapter 192

ADDRESS CONFIDENTIALITY PROGRAM

192.820 Definitions for ORS 192.820 to 192.868. As used in ORS 192.820 to 192.868:

(1) "Actual address" means:

(a) A residential, work or school street address of an individual specified on the application of the individual to be a program participant; or

(b) The name of the county in which the program participant resides or the name or number of the election precinct in which the program participant is registered to vote.

(2) "Address Confidentiality Program" means the program established under ORS 192.822.

(3) "Application assistant" means an employee of or a volunteer serving a public or private entity designated by the Attorney General under ORS 192.854 to assist individuals with applications to participate in the Address Confidentiality Program.

(4) "Program participant" means an individual accepted into the Address Confidentiality Program under ORS 192.820 to 192.868.

(5) "Public body" has the meaning given that term in ORS 174.109.

(6) "Public record" has the meaning given that term in ORS 192.311.

(7) "Substitute address" means an address designated by the Attorney General under the Address Confidentiality Program.

(8) "Victim of a sexual offense" means:

(a) An individual against whom a sexual offense has been committed, as described in ORS 163.305 to 163.467, 163.427, 163.466 or 163.525; or

(b) Any other individual designated by the Attorney General by rule.

(9) "Victim of domestic violence" means:

(a) An individual against whom domestic violence has been committed, as defined in ORS 135.230, 181A.355 or 411.117;

(b) An individual who has been a victim of abuse, as defined in ORS 107.705; or

(c) Any other individual designated a victim of domestic violence by the Attorney General by rule.

(10) "Victim of human trafficking" means:

(a) An individual against whom an offense described in ORS 163.263, 163.264 or 163.266 has been committed; or

(b) Any other individual designated by the Attorney General by rule. In adopting rules under this subsection, the Attorney General shall consider individuals against whom an act recognized as a severe form of trafficking in persons under 22 U.S.C. 7102 has been committed.

(11) "Victim of stalking" means:

(a) An individual against whom stalking has been committed, as described in ORS 163.732; or

(b) Any other individual designated by the Attorney General by rule. [2005 c.821 §1; 2007 c.542 §1; 2009 c.11 §18; 2009 c.468 §1]

Note: 192.820 to 192.868 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 192 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

192.834 Cancellation of certification.

(1) The Attorney General shall cancel the certification of a program participant if:

(a) The Attorney General determines that the program participant violated ORS 192.828;

(b) The Attorney General determines that the program participant violated ORS 192.832; or

(c) Subject to ORS 192.832 (2), first class, certified or registered mail forwarded to the program participant by the Attorney General is returned as undeliverable.

(2) The Attorney General shall send notice of cancellation to the program participant setting out the reasons for the cancellation and setting out the rights and duties of the program participant.

(3) A program participant has 30 days to appeal the cancellation decision under procedures adopted by the Attorney General by rule. A cancellation of certification under this section is not considered an order as defined in ORS 183.310 and is not subject to judicial review under ORS 183.480.

(4) An individual whose certification as a program participant is canceled under this section shall notify persons and public bodies using the substitute address as the address of the program participant that the substitute address is no longer the address to be used by public bodies as described in ORS 192.836. [2005 c.821 §6]

Note: See note under 192.820.

192.836 Use of substitute address; waiver of requirement. (1)(a) A program participant may request that public bodies use the substitute address designated by the Attorney General as the address of the program participant in any ongoing actions or proceedings or when creating a new public record.

(b) A public body is not responsible for requesting that departments, divisions, affiliates or other organizational units of the public body or other public bodies use the substitute address as the address of the program participant.

(c) Unless requested by the program participant, when the actual address of a program participant is contained in a public record that is filed with the public body, the public body is not responsible for modifying the public record to contain the substitute address designated by the Attorney General.

(d) The Attorney General is not responsible for making requests under this subsection.

(2) Except as provided in this section and ORS 192.842, when a program participant submits a current and valid Address Confidentiality Program authorization card to a public body, the public body shall accept the substitute address on the authorization card as the address of the program participant when creating a new public record. Upon the request of the program participant, the public body shall use the substitute address on the authorization card in any ongoing actions or proceedings.

(3) A public body may request a waiver from the requirements of the Address Confidentiality Program by submitting a waiver request to the Attorney General. The waiver request shall be in writing and include:

(a) An explanation of why the public body cannot meet its statutory or administrative obligations by possessing or using the substitute address; and

(b) An affirmation that if the Attorney General accepts the waiver, the public body will only use the actual address of the program participant for those statutory or administrative purposes included in the waiver request.

(4) The Attorney General shall accept or deny a waiver request from a public body in writing and include a statement of specific reasons for acceptance or denial. An acceptance or denial made under this subsection is not considered an order as defined in ORS 183.310 and is not subject to judicial review under ORS 183.480.

(5) Except as provided in ORS 192.820 to 192.868, if a law or rule requires the use of a residence address, the substitute address may be used instead. [2005 c.821 §7; 2007 c.542 §2]

Note: See note under 192.820.

192.844 Prohibition on disclosure of actual address or telephone number by public body. (1) Except as provided in ORS 192.820 to 192.868, a public body that receives a request from a program participant under ORS 192.836 may not disclose the actual address or telephone number of the program participant.

(2) Each public body that receives a request from a program participant under ORS 192.836 shall adopt a procedure to prevent unnecessary disclosure of actual addresses or telephone numbers of program participants to employees of that public body or other persons in that public body. [2005 c.821 §9; 2007 c.542 §3]

Note: See note under 192.820.

192.846 Records of Department of Transportation; substitute address. (1) A program participant may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the program participant's actual address contain instead the substitute address designated by the Attorney General. A request under this subsection must:

(a) Be in a form specified by the department; and

(b) Contain verification that the individual is a program participant.

(2) Upon receipt of a request and verification under this section, the department shall remove the program participant's actual address from its records and instead use the substitute address designated by the Attorney General. The department shall note on the records that the address shown is a substitute address under ORS 192.820 to 192.868. While the request is in effect, the program participant may enter the substitute address on any driver or vehicle form issued by the department that requires an address.

(3) If an individual ceases to be certified as a program participant, the individual shall notify the department of a change of address as provided in ORS 803.220, 807.420 or 807.560. [2007 c.542 §11]

Note: See note under 192.820.

Chapter 247

VOTER REGISTRATION

247.012 Method of registering or updating a registration; when registration occurs; minimum registration information required; effect of missing registration information; registration locations.

(1) A qualified person may register to vote or update a registration to vote by:

(a) Delivering by mail, having a person deliver or otherwise delivering a completed registration card to any county clerk, the Secretary of State, any office of the Department of Transportation or any designated voter registration agency as described in ORS 247.208;

(b) Personally delivering, or having a person deliver, the card to an official designated by a county clerk under subsection (7) of this section;

(c) Submitting the person's legal name, age, residence and citizenship information and electronic signature to the Department of Transportation; or

(d) Completing a registration card using the electronic voter registration system described in ORS 247.019.

(2) If a registration card is mailed or delivered to:

(a) Any person other than a county clerk or the Secretary of State, the person shall forward the card to a county clerk or the Secretary of State not later than the fifth day after receiving the card; or

(b) The Secretary of State or a county clerk for a county other than the county in which the person applying for registration resides, the Secretary of State or county clerk shall forward the card to the county clerk for the county in which the person resides not later than the fifth day after receiving the card.

(3) Registration of a qualified person occurs:

(a) When a legible, accurate and complete registration card is received in the office of any county clerk, the Office of the Secretary of State, an office of the Department of Transportation, a designated voter registration agency under ORS 247.208 or at a location designated by a county clerk under subsection (7) of this section;

(b) On the date a registration card is postmarked if the card is received after the 21st day immediately preceding an election but is postmarked not later than the 21st day immediately preceding the election and is addressed to an office of any county clerk, the Office of the Secretary of State, an office of the Department of Transportation or any designated voter registration agency as described in ORS 247.208; or

(c) In the case of a registration card missing a date of birth, containing an incomplete date of birth or containing an unintentional scrivener's error that is supplied or corrected as described in subsection (4) or

(6) of this section, on the date that registration would have occurred if the registration card had not been missing the date of birth, contained an incomplete date of birth or contained the scrivener's error.

(4)(a) Except as provided in ORS 247.125, if a registration card is legible, accurate and contains, at a minimum, the registrant's name, residence address, date of birth and signature, the county clerk shall register the person.

(b) If the information required under paragraph (a) of this subsection is missing from the registration card or the date of birth is incomplete, the county clerk shall attempt to obtain the missing or incomplete information from all sources available to the county clerk, including but not limited to current and previous addresses and phone numbers of the registrant. The county clerk may also supply the registrant's date of birth from any previous registration of the registrant. If the missing or incomplete information cannot be obtained from sources available to the county clerk, the county clerk shall use reasonable efforts to contact the registrant by phone, mail and electronic mail to obtain the missing or incomplete information.

(5) If a registration card meets the requirements of subsection (4) of this section but is missing an indication of political party affiliation, the registrant shall be considered not affiliated with any political party. This subsection does not apply if an elector is updating a registration.

(6) If a registration card contains an unintentional scrivener's error, the county clerk may attempt to contact the person to correct the error.

(7) A county clerk may appoint officials to accept registration of persons at designated locations. The appointments and locations shall be in writing and filed in the office of the county clerk. The county clerk shall be responsible for the performance of duties by those appointed.

(8) A registration card received and accepted under this section shall be considered an active registration.

(9) A registration may be updated at any time. [1979 c.190 §41; 1985 c.808 §1a; 1989 c.20 §1; 1989 c.173 §5; 1989 c.979 §2; 1993 c.713 §6; 1995 c.742 §1; 1999 c.410 §6; 1999 c.824 §1; 2008 c.53 §1; 2009 c.511 §1; 2009 c.914 §3; 2011 c.607 §1; 2015 c.8 §3; 2017 c.680 §1]

247.014 Transfer of voter registration information by Department of Transportation. In implementing ORS 247.012, 247.017 and 247.171, the Department of Transportation shall take steps reasonably necessary to allow transfer of voter registration information by electronic or magnetic medium. [1991 c.940 §4]

247.016 Registration of person who is 16 or 17 years of age; limitation on public record disclosure. (1) Subject to this section, an otherwise qualified person who is at least 16 years of age may register to vote.

(2) A person who registers to vote under subsection (1) of this section may not vote in an election until the person attains the age of 18 years.

(3) If a person who registers to vote under subsection (1) of this section will be under 18 years of age on the date of the next election held on a date listed in ORS 171.185 or the next special election, the person's voter registration information, including but not limited to the person's name and any identifying information, may not be disclosed as a public record under ORS 192.311 to 192.478. [2007 c.555 §2; 2015 c.8 §8; 2017 c.468 §1]

247.017 Transfer of voter registration materials to Secretary of State from Department of Transportation; opt-out of voter registration; rules. (1) The Secretary of State shall by rule establish a schedule by which the Department of Transportation shall provide to the secretary electronic records containing the legal name, age, residence and citizenship information for, and the electronic signature of, each person who meets qualifications identified by the secretary by rule.

(2) Upon receiving the electronic record for, and electronic signature of, a person described in subsection (1) of this section, the Secretary of State shall provide the information to the county clerk of the county in which the person may be registered as an elector. The secretary or county clerk shall notify each person of the process to:

(a) Decline being registered as an elector.

(b) Adopt a political party affiliation.

(3) If a person notified under subsection (2) of this section does not decline to be registered as an elector within 21 calendar days after the Secretary of State or county clerk issues the notification, the person's electronic record and electronic signature submitted under subsection (1) of this section will constitute a completed registration card for the person for purposes of this chapter. The person shall be registered to vote if the county clerk determines that the person is qualified to vote under Article II, section 2, of the Oregon Constitution, and the person is not already registered to vote.

(4) A county clerk may not send a ballot to, or add to an elector registration list, a person who meets eligibility requirements until at least 21 calendar days after the Secretary of State or county clerk provided notification to the person as described in subsection (2) of this section.

(5) The Secretary of State shall adopt rules required to implement this section. [Formerly 802.090; 1995 c.742 §2; 2007 c.555 §4; 2015 c.8 §1]

247.019 Electronic voter registration; rules. (1) The Secretary of State by rule shall adopt an electronic voter registration system to be used by qualified persons who have a valid:

(a) Oregon driver license, as defined in ORS 801.245;

(b) Oregon driver permit, as defined in ORS 801.250; or

(c) State identification card, issued under ORS 807.400.

(2) The electronic voter registration system shall allow a qualified person to complete and deliver a registration card electronically. A registration card delivered under this section is considered delivered to the Secretary of State for purposes of this chapter.

(3) A person who completes a registration card electronically under this section consents to the use of the person's driver license, driver permit or state identification card signature for voter registration purposes.

(4) The Department of Transportation shall provide to the Secretary of State a digital copy of the driver license, driver permit or state identification card signature of each person who completes a registration card under this section. [2009 c.914 §2]

247.025 Registration deadline; required address. To vote in an election:

(1) A person's registration card must be received at an office or location described in ORS 247.012 not later than the time the office or location closes for business on the 21st day immediately preceding the election, but in no case later than midnight of the 21st day immediately preceding the election;

(2) A person's registration card must be postmarked not later than the 21st day immediately

preceding the election and be addressed to an office of any county clerk, the Office of the Secretary of State, an office of the Department of Transportation or any designated voter registration agency as described in ORS 247.208; or

(3) A person's registration card must be delivered electronically as described in ORS 247.019 not later than 11:59 p.m. of the 21st day immediately preceding the election. [1979 c.190 §43; 1985 c.833 §1; 1987 c.719 §9; 1987 c.733 §1; 1993 c.713 §7; 1999 c.410 §8; 2008 c.53 §2; 2010 c.9 §2]

247.171 State and federal voter registration cards; Secretary of State approval of voter registration application forms of voter registration agencies; content of voter registration cards. (1) Except as provided in this subsection, the Secretary of State shall design, prepare and distribute state voter registration cards. The Secretary of State shall also distribute federal registration cards. Any person may apply in writing to the Secretary of State for permission to print, copy or otherwise prepare and distribute the registration cards designed by the Secretary of State. The secretary may revoke any permission granted under this subsection at any time. All registration cards shall be distributed to the public without charge.

(2) The Secretary of State shall approve any voter registration application form developed for use by any agency designated as a voter registration agency under ORS 247.208.

(3) Each voter registration card designed or approved by the Secretary of State shall describe the penalties for knowingly supplying false information on the registration card and shall contain space for a person to provide the following information:

(a) Full name;

(b) Residence address, mailing address or any other information necessary to locate the residence of the person offering to register to vote;

(c) The name of the political party with which the person is affiliated, if any;

(d) Date of birth;

(e) An indication that the person is a citizen of the United States; and

(f) A signature attesting to the fact that the person is qualified to be an elector.

(4) Any form containing a voter registration card may also include space for a person to provide:

(a) A telephone number where the person may be contacted; and

(b) If previously registered to vote in this state, the name then supplied by the person and the county and, if known, the address of previous registration.

(5) A person shall not supply any information under subsection (3) or (4) of this section knowing it to be false.

(6) A county clerk or other person accepting registration cards shall not request any information unless it is authorized by state or federal law.

(7) A person shall attest to the information supplied on the voter registration card by signing the completed registration card.

(8) Any completed and signed registration card described in subsection (3) of this section shall be the official registration card of the elector. [1957 c.608 §36; 1965 c.464 §2; 1971 c.241 §5; 1975 c.678 §16; 1977 c.168 §4; 1979 c.190 §47; 1985 c.808 §4; 1985 c.833 §3; 1987 c.320 §150; 1987 c.719 §11; 1987 c.733 §3; 1989 c.20 §3; 1989 c.173 §1; 1989 c.979 §5; 1993 c.713 §10; 1995 c.742 §3; 2015 c.8 §4]

247.174 Determining if person qualified to register or update registration; hearing. (1) The qualifications of any person who requests to be registered or to update a registration shall be determined in the first instance by the county clerk or official designated by the county clerk to register persons as electors from the evidence present.

(2) The county clerk or official designated by the county clerk to register persons as electors may reject any registration or update of a registration if the clerk or official determines that the person is not qualified or that the registration card is illegible, inaccurate or incomplete. The clerk or official shall promptly notify the person of the rejection.

(3) A person whose registration or update to a registration is rejected may apply to the county clerk not later than the 10th day after the rejection for a hearing on the person's qualifications to register or update the registration. Not later than the 10th day after the date the county clerk receives the application, the clerk shall notify the applicant of the place and time of the hearing on the qualifications. The hearing shall be held not sooner than the second nor later than the 20th day after notice is given. At the hearing the applicant may present evidence of qualification. If the county clerk, upon the conclusion of the hearing, determines that the applicant is qualified, the county clerk shall register or update the registration of the applicant. [Formerly 247.141; 1983 c.83 §28; 1985 c.471 §2; 1985 c.833 §4; 1987 c.719 §12; 1987 c.733 §4; 1993 c.713 §11]

247.178 Distribution of registration cards. Any person may distribute a registration card in any reasonable manner that facilitates elector registration, including but not limited to distribution of the card door to door. The card shall be available at any field office of the Department of Transportation where applications for driver licenses or vehicle registrations are accepted and at any office of an agency designated a voter registration agency under ORS

247.208. [Formerly 247.045; 1993 c.713 §12; 1993 c.741 §20]

247.208 Voter registration agencies; designation; prohibited activities; required services; assessment of compliance with federal guidelines. (1) The Secretary of State by rule, in accordance with the requirements of the National Voter Registration Act of 1993 (P.L. 103-31), shall designate agencies as voter registration agencies. Agencies designated may include state, county, city or district offices and federal and nongovernmental offices with the agreement of the federal or nongovernmental offices.

(2) Services required by the National Voter Registration Act of 1993 (P.L. 103-31) shall be made available in connection with any registration card at each voter registration agency designated by the Secretary of State.

(3) A person providing services referred to in subsection (2) of this section at a voter registration agency shall not:

(a) Seek to influence the political preference or party registration of a person registering to vote;

(b) In accordance with provisions of the Oregon Constitution, display such political preference or party allegiance;

(c) Make any statement to a person registering to vote or take any action the purpose or effect of which is to discourage a person from registering to vote;

(d) Make any statement to a person registering to vote or take any action the purpose or effect of which is to lead the person to believe that a decision to register or not to register has any bearing on the availability of services or benefits; or

(e) Seek to induce any person to register or vote in any particular manner.

(4) Each state agency required to be designated a voter registration agency under the National Voter Registration Act of 1993 (P.L. 103-31) shall, with each application for service or assistance and with each recertification, renewal or change of address form relating to the service or assistance:

(a) Distribute a registration card, including all statements required under the National Voter Registration Act of 1993 (P.L. 103-31); and

(b) Provide a form including other information required by the National Voter Registration Act of 1993 (P.L. 103-31).

(5) Information relating to a declination to register to vote in connection with an application made at an office described in subsection (4) of this section shall not be used for any purpose other than voter registration.

(6) A completed registration card accepted at a voter registration agency designated under this section shall be delivered to a county clerk or the Secretary of State.

(7) At least once each biennium, the Secretary of State shall:

(a) Assess new and developing federal guidelines regarding compliance with the National Voter Registration Act of 1993 (P.L. 103-31);

(b) Identify steps necessary to ensure ongoing compliance with the National Voter Registration Act of 1993 (P.L. 103-31);

(c) Identify barriers to and research opportunities for ensuring the accuracy, security and efficiency of current voter registration processes at voter registration agencies designated under this section; and

(d) Identify ways to improve use of current technology. [1993 c.713 §5; 2011 c.374 §3]

Chapter 283

MARKING OF STATE-OWNED VEHICLES

283.390 State-owned vehicles to be marked; exceptions. (1) Any state department or institution owning or operating automobiles or trucks shall have printed or painted in plain lettering of a size so as to be readily read the name of the department or institution owning or operating the vehicle, followed by the words "State of Oregon."

(2) A vehicle need not be marked as required by subsection (1) of this section and need bear only such evidence of registration as is required on privately owned vehicles if:

(a) In the opinion of the Director of the Oregon Department of Administrative Services, the marking of the vehicle as required by subsection (1) of this section would unduly hinder the department or institution owning or operating the vehicle in carrying out its duties and functions; and

(b) The department has approved in writing the operation of the particular vehicle without being marked as required by subsection (1) of this section.

(3) Notwithstanding subsection (1) of this section, the department shall, upon request of any state law enforcement agency or state parole or probation agency for which the department obtains vehicles, obtain for the agencies vehicles that are not marked as required by subsection (1) of this section and that have registration described in ORS 805.060. [Formerly 291.724; 1987 c.6 §3; 1993 c.741 §118]

Chapter 291

AGENCY FEE RESTRICTIONS

291.050 Definitions for ORS 291.050 to 291.060. As used in ORS 291.050 to 291.060:

(1) "Fee" means an amount imposed and collected by a state agency to defray or recover the costs of administering the law involved in providing a service to the public and used by the state agency to carry out or enforce a law under its jurisdiction. "Fee" does not include:

(a) Fines, civil penalties or court judgments.

(b) Proceeds from the sale of products or charges for rents, leases or other real estate transactions.

(c) Interest and other charges for bonding and loan transactions.

(d) Charges levied by one state agency on another state agency.

(e) Copying charges for public records as defined in ORS 192.311.

(f) Charges for attendance at informational seminars.

(2) "Legislatively adopted budget" has the meaning given that term in ORS 291.002.

(3) "Legislatively approved budget" has the meaning given that term in ORS 291.002.

(4) "Products" means goods and publications purchased voluntarily that have a commercial value. "Products" does not include licenses or permits issued by state agencies.

(5) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government that is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to 291.260. "State agency" includes the Legislative Assembly, including legislative committees and service agencies, the Secretary of State, the State Treasurer and the Judicial Department. "State agency" does not include a commodity commission established under ORS 576.051 to 576.455 or the Oregon Beef Council created under ORS 577.210. [1995 c.576 §1; 2003 c.604 §99; 2007 c.827 §1; 2011 c.688 §2]

Note: 291.050 to 291.060 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.055 State agency fee approval; exemptions; restoration of temporarily reduced fees. (1) Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted during the period beginning on the date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly:

(a) Are not effective for agencies in the executive department of government unless approved in writing by the Director of the Oregon Department of Administrative Services;

(b) Are not effective for agencies in the judicial department of government unless approved in writing by the Chief Justice of the Supreme Court;

(c) Are not effective for agencies in the legislative department of government unless approved in writing by the President of the Senate and the Speaker of the House of Representatives;

(d) Shall be reported by the state agency to the Oregon Department of Administrative Services within 10 days of their adoption; and

(e) Are rescinded on adjournment sine die of the next regular session of the Legislative Assembly as described in this subsection, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

(a) Any tuition or fees charged by a public university listed in ORS 352.002.

(b) Taxes or other payments made or collected from employers for unemployment insurance required by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contributions and assessments calculated by cents per hour for workers' compensation coverage required by ORS 656.506.

(c) Fees or payments required for:

(A) Health care services provided by the Oregon Health and Science University, by the Oregon Veterans' Homes pursuant to ORS 408.362 and 408.365 to 408.385 and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

(B) Copayments and premiums paid to the Oregon medical assistance program.

(C) Assessments paid to the Department of Consumer and Business Services under sections 3 and 5, chapter 538, Oregon Laws 2017.

(d) Fees created or authorized by statute that have no established rate or amount but are calculated for each separate instance for each fee payer and are based on actual cost of services provided.

(e) State agency charges on employees for benefits and services.

(f) Any intergovernmental charges.

(g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the Oregon Forest Land Protection Fund fees established by ORS 477.760.

(h) State Department of Energy assessments required by ORS 456.595 and 469.421 (8).

(i) Assessments on premiums charged by the Director of the Department of Consumer and Business Services pursuant to ORS 731.804

or fees charged by the director to banks, trusts and credit unions pursuant to ORS 706.530 and 723.114.

(j) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

(k) Fees charged by the Housing and Community Services Department for intellectual property pursuant to ORS 456.562.

(L) New or increased fees that are anticipated in the legislative budgeting process for an agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted budget or the legislatively approved budget for the agency.

(m) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

(n) Portal provider fees as defined in ORS 276A.270 and established by the State Chief Information Officer under ORS 276A.276 (3) and recommended by the Electronic Government Portal Advisory Board.

(o) Fees set by the State Parks and Recreation Director and approved by the State Parks and Recreation Commission under ORS 390.124 (2)(b).

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be increased to not more than their prior level without compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency specifies the following:

(A) The reason for the fee decrease; and

(B) The conditions under which the fee will be increased to not more than its prior level.

(b) Fees that are decreased for reasons other than those described in paragraph (a) of this subsection may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160. [1995 c.576 §2; 1997 c.37 §1; 1997 c.684 §3; 2003 c.605 §3; 2005 c.727 §§14,15; 2005 c.744 §§24d,24e; 2005 c.777 §16; 2007 c.531 §§14,15; 2007 c.827 §§2,3; 2009 c.829 §4; 2009 c.867 §40; 2011 c.637 §98; 2011 c.688 §1; 2013 c.492 §30; 2013 c.698 §§9,36; 2013 c.768 §127; 2015 c.70 §§19,20; 2015 c.807 §§44a,44b; 2017 c.17 §§23,24; 2017 c.385 §§2,3; 2017 c.444 §§4,5; 2017 c.538 §§15,16; 2019 c.224 §6]

Note: See note under 291.050.

Chapter 305

LICENSEE AND CONTRACTOR LISTS

305.380 Definitions for ORS 305.385. As used in ORS 305.385:

(1) "Agency" means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state which imposes a local tax administered by the Department of Revenue under ORS 305.620.

(2) "License" means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

(3) "Provider" means any person who contracts to supply goods, services or real estate space to an agency.

(4) "Tax" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and local taxes administered by the Department of Revenue under ORS 305.620. [1987 c.843 §6; 1997 c.99 §35; 1997 c.170 §16; 2005 c.94 §21; 2015 c.348 §10]

305.385 Agencies to supply licensee and contractor lists; contents; effect of department determination on taxpayer status of licensee or contractor; rules. (1) Upon request of the Department of Revenue, an agency issuing or renewing a license to conduct a business, trade or profession shall annually, on or before March 1, supply the department with a list of specified licenses issued or renewed by the agency during the preceding calendar year.

(2) Upon request of the department, an agency shall annually, on or before March 1, supply the department with a list of specified persons contracting with the agency to provide goods, services or real estate space to the agency during the preceding calendar year.

(3) The lists required by subsections (1) and (2) of this section shall contain the name, address, Social Security or federal employer identification number of each licensee or provider or such other information as the department may by rule require.

(4)(a) If the department determines that any licensee or provider has neglected or refused to file any return or to pay any tax and that such person has not filed in good faith a petition before the department contesting the tax, and the department has been unable to obtain payment of the tax through other methods of collection, the Director of the Department of Revenue may, notwithstanding ORS 118.525, 314.835 or 314.840 or any similar provision of law, notify the agency and the person in writing.

(b) Upon receipt of such notice, the agency shall refuse to reissue, renew or extend any license, contract or agreement until the agency receives a certificate issued by the department that the person is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(c) Upon the written request of the director and after a hearing and notice to the licensee as required under any applicable provision of law,

the agency shall suspend the person's license if the agency finds that the returns and taxes have not been filed or paid and that the licensee has not filed in good faith a petition before the department contesting the tax and the department has been unable to obtain payment of the tax through other methods of collection. For the purpose of the agency's findings, the written representation to that effect by the department to the agency shall constitute prima facie evidence of the person's failure to file returns or pay the tax. The department shall have the right to intervene in any license suspension proceeding.

(d) Any license suspended under this subsection shall not be reissued or renewed until the agency receives a certificate issued by the department that the licensee is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(5) The department may enter into an installment payment agreement with a licensee or provider with respect to any unpaid tax, penalty and interest. The agreement shall provide for interest on the outstanding amount at the rate prescribed by ORS 305.220. The department may issue a provisional certificate of good standing pursuant to subsection (4)(b) and (d) of this section which shall remain in effect so long as the licensee or provider fully complies with the terms of the installment agreement. Failure by the licensee or provider to fully comply with the terms of the installment agreement shall render the agreement and the provisional certificate of good standing null and void, unless the department determines that the failure was due to reasonable cause. If the department determines that the failure was not due to reasonable cause, the total amount of the tax, penalty and interest shall be immediately due and payable, and the department shall notify any affected agency that the licensee or provider is not in good standing. The agency shall then take appropriate action under subsection (4)(b) and (d) of this section.

(6) No contract or other agreement for the purpose of providing goods, services or real estate space to any agency shall be entered into, renewed or extended with any person, unless the person certifies in writing, under penalty of perjury, that the person is, to the best of the person's knowledge, not in violation of any tax laws described in ORS 305.380 (4).

(7) The certification under subsection (6) of this section shall be required for each contract and renewal or extension of a contract or may be provided on an annual basis. A certification shall not be required for a contract if the consideration for the goods, services or real estate space provided under the contract is no more than $1,000.

(8)(a) The requirements of the certification under subsection (6) of this section shall be subject to the rules adopted by the department in accordance with this section.

(b) The department may by rule exempt certain contracts from the requirements of subsection (6) of this section. [1987 c.843 §7; 1989 c.656 §1; 1997 c.99 §36]

Chapter 308

ASSESSMENT OF MOBILE HOMES FOR TAXATION

308.865 Notice and payment of taxes before movement of mobile modular unit.

(1) A person may not move a mobile modular unit to a new situs within the same county or outside the county until the person has:

(a) Given notice of the move to the county tax collector; and

(b) Paid all property taxes and special assessments for the current tax year and all outstanding delinquent property taxes and special assessments for all past tax years.

(2) Upon receiving notice of a move, the county tax collector shall send copies of the notice to the county assessor and the Department of Transportation.

(3) In computing taxes and special assessments on a mobile modular unit that will become due, the following apply:

(a) If the assessor can compute the exact amount of taxes, special assessments, fees and charges, the assessor is authorized to levy and the tax collector is authorized to collect such amount.

(b) If the assessor is unable to compute such amount at such time, the owner shall either pay an amount computed using the value then on the assessment roll for the mobile modular unit or that value which next would be used on an assessment roll and the assessor's best estimate of taxes, special assessments, fees and other charges.

(c) ORS 311.370 applies to all taxes collected under this subsection. [1969 c.605 §14; 1971 c.529 §31; 1973 c.91 §5; 1977 c.884 §10; 1979 c.350 §10; 1983 c.311 §1; 1985 c.16 §455; 1985 c.416 §§1,1a; 1991 c.459 §172; 1993 c.551 §3; 1993 c.696 §12; 1997 c.541 §§221,221a; 1999 c.359 §8; 2003 c.655 §65]

Note: 308.865, 308.866, 308.875 and 308.880 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 308 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.880 Travel or special use trailer eligible for ad valorem taxation upon application of owner. (1) The owner of any travel trailer described in ORS 801.565 that is being used either as a permanent home or for other than recreational purposes may apply to the assessor in the county in which it has situs to have the

travel trailer assessed for ad valorem taxation. If the assessor determines that the travel trailer is being used either as a permanent home or for other than recreational uses, the assessor shall place the travel trailer on the assessment and tax rolls the same as if it were a manufactured structure. The assessor shall accept the travel trailer plate for the vehicle and return the plate to the Department of Transportation, and shall, as appropriate, record the travel trailer in the county deed records or assist in obtaining an ownership document for the travel trailer under ORS 446.571. Any travel trailer placed on the assessment and tax rolls under this section is considered a manufactured structure for all purposes.

(2) The owner of any special use trailer described in ORS 801.500 that is eight and one-half feet or less in width may apply to the assessor of the county in which it has situs to have the special use trailer assessed for ad valorem taxation. If the assessor determines that the special use trailer is eight and one-half feet or less in width and is permanently situated in one place, the assessor shall place the special use trailer on the assessment and tax rolls in the same way as if it were a manufactured structure. The assessor shall accept any special use trailer plate for the vehicle and return the plate to the Department of Transportation, and shall, as appropriate, record the special use trailer in the county deed records or assist in obtaining an ownership document for the special use trailer under ORS 446.571. Any special use trailer placed on the assessment and tax rolls under this section is considered a manufactured structure for all purposes. [1969 c.605 §59; 1971 c.529 §5; 1983 c.338 §907; 1993 c.696 §14; 1995 c.79 §135; 2003 c.655 §68; 2005 c.94 §56]

Note: See note under 308.865.

Chapter 320

USE TAX; PRIVILEGE TAX

320.400 Definitions for ORS 320.400 to 320.490 and 803.203. As used in ORS 320.400 to 320.490 and 803.203:

(1)(a) "Bicycle" means:

(A) A vehicle that is designed to be operated on the ground on wheels and is propelled exclusively by human power; or

(B) An electric assisted bicycle as defined in ORS 801.258.

(b) "Bicycle" does not include:

(A) Carts;

(B) Durable medical equipment;

(C) In-line skates;

(D) Roller skates;

(E) Skateboards;

(F) Stand-up scooters;

(G) Strollers designed for the transportation of children;

(H) Trailer cycles or other bicycle attachments; or

(I) Wagons.

(2)(a) "Retail sales price" means the total price paid at retail for a taxable vehicle, exclusive of the amount of any excise, privilege or use tax, to a seller by a purchaser of the taxable vehicle.

(b) "Retail sales price" does not include the retail value of:

(A) Modifications to a taxable vehicle that are necessary for a person with a disability to enter or drive or to otherwise operate or use the vehicle.

(B) Customized industrial modifications to the chassis of a truck that has a gross vehicle weight rating of at least 10,000 pounds and not more than 26,000 pounds.

(3) "Seller" means:

(a) With respect to the privilege tax imposed under ORS 320.405 and the use tax imposed under ORS 320.410, a vehicle dealer.

(b) With respect to the excise tax imposed under ORS 320.415, a person engaged in whole or in part in the business of selling bicycles.

(4) "Taxable bicycle" means a new bicycle that has a retail sales price of $200 or more.

(5) "Taxable motor vehicle" means a vehicle that:

(a) Has a gross vehicle weight rating of 26,000 pounds or less;

(b)(A) If equipped with an odometer, has 7,500 miles or less on the odometer; or

(B) If not equipped with an odometer, has a manufacturer's certificate of origin or a manufacturer's statement of origin; and

(c) Is:

(A) A vehicle as defined in ORS 744.850, other than an all-terrain vehicle or a trailer;

(B) A camper as defined in ORS 801.180;

(C) A commercial bus as defined in ORS 801.200;

(D) A commercial motor vehicle as defined in ORS 801.208;

(E) A commercial vehicle as defined in ORS 801.210;

(F) A fixed load vehicle as defined in ORS 801.285;

(G) A moped as defined in ORS 801.345;

(H) A motor home as defined in ORS 801.350;

(I) A motor truck as defined in ORS 801.355;

(J) A tank vehicle as defined in ORS 801.522;

(K) A trailer as defined in ORS 801.560 that is required to be registered in this state;

(L) A truck tractor as defined in ORS 801.575; or

(M) A worker transport bus as defined in ORS 801.610.

(6) "Taxable vehicle" means a taxable bicycle or a taxable motor vehicle.

(7) "Transportation project taxes" means the privilege tax imposed under ORS 320.405, the use tax imposed under ORS 320.410 and the excise tax imposed under ORS 320.415.

(8)(a) "Vehicle dealer" means:

(A) A person engaged in business in this state that is required to obtain a vehicle dealer certificate under ORS 822.005; and

(B) A person engaged in business in another state that would be subject to ORS 822.005 if the person engaged in business in this state.

(b) Notwithstanding paragraph (a) of this subsection, a person is not a vehicle dealer for purposes of ORS 320.400 to 320.490 and 803.203 to the extent the person:

(A) Conducts an event that lasts less than seven consecutive days, for which the public is charged admission and at which otherwise taxable motor vehicles are sold at auction; or

(B) Sells an otherwise taxable motor vehicle at auction at an event described in this paragraph. [2017 c.750 §89; 2018 c.93 §10; 2019 c.491 §1]

320.401 Transportation project tax expenditures in continuous effect. For purposes of ORS 315.037, any tax expenditure enacted with respect to any or all transportation project taxes shall remain in continuous effect until the Legislative Assembly expressly provides otherwise. [2019 c.491 §19]

320.405 Tax for privilege of engaging in business of selling motor vehicles at retail; when tax due; collection of privilege tax from purchaser. (1) A tax is imposed on each vehicle dealer for the privilege of engaging in the business of selling taxable motor vehicles at retail in this state.

(2)(a) The privilege tax shall be computed at the rate of 0.5 percent of the retail sales price of the taxable motor vehicle. The tax may be rounded to the nearest whole cent.

(b) The privilege tax becomes due upon the sale at retail of a taxable motor vehicle that:

(A) Has never been registered in this state; or

(B) Has been registered only to a vehicle dealer for use as a demonstrator in the course of the vehicle dealer's business.

(3)(a) A vehicle dealer may collect the amount of the privilege tax computed on the retail sales price of a taxable motor vehicle from the purchaser of the taxable motor vehicle.

(b) Notwithstanding paragraph (a) of this subsection, the purchaser of a taxable motor vehicle from whom the privilege tax is collected is not considered a taxpayer for purposes of the privilege tax imposed under this section. [2017 c.750 §90; 2018 c.93 §11]

320.410 Tax on use in Oregon of motor vehicles purchased out of state at retail; tax as liability of purchaser; reduction for other taxes paid. (1) A use tax is imposed on the storage, use or other consumption in this state of taxable motor vehicles purchased at retail from any seller.

(2) The use tax shall be computed at the rate of 0.5 percent of the retail sales price of the taxable motor vehicle.

(3) The use tax is a liability of the purchaser of the taxable motor vehicle.

(4) The use tax shall be reduced, but not below zero, by the amount of any privilege, excise, sales or use tax imposed by any jurisdiction on the sale, or on the storage, use or other consumption, of the taxable motor vehicle. The reduction under this subsection shall be made only upon a showing by the purchaser that a privilege, excise, sales or use tax has been paid.

(5) The amount of the use tax shall be separately stated on an invoice, receipt or other similar document that the seller provides to the purchaser or shall be otherwise disclosed to the purchaser.

(6) A purchaser's liability for the use tax is satisfied by a valid receipt given to the purchaser under ORS 320.420 by the seller of the taxable motor vehicle. [2017 c.750 §91]

320.420 Collection of use tax; time of collection; presumptions of use in this state. (1) A seller shall collect the use tax imposed under ORS 320.410 from a purchaser of a taxable motor vehicle and give the purchaser a receipt for the use tax in the manner and form prescribed by the Department of Revenue if:

(a) The seller is:

(A) Engaged in business in this state;

(B) Required to collect the use tax; or

(C) Authorized by the department, under rules the department adopts, to collect the use tax and, for purposes of the use tax, regarded as a seller engaged in business in this state; and

(b) The seller makes sales of taxable motor vehicles for storage, use or other consumption in this state that are subject to the use tax.

(2) A seller required to collect the use tax under this section shall collect the tax:

(a) At the time of the taxable sale; or

(b) If the storage, use or other consumption of the taxable motor vehicle is not taxable at the time of sale, at the time the storage, use or other consumption becomes taxable.

(3) To ensure the proper administration of ORS 320.410, and to prevent evasion of the use tax, the following presumptions are established:

(a) A taxable motor vehicle is stored, used or otherwise consumed in this state if it is present in this state for private or public display or storage.

(b)(A) A taxable motor vehicle sold by any seller for delivery in this state was sold for storage, use or other consumption in this state unless the contrary is proved.

(B) The burden of proving the contrary is on the seller unless the seller takes from the purchaser a resale certificate to the effect that the taxable motor vehicle was purchased for resale in the ordinary course of the purchaser's business.

(c)(A) A taxable motor vehicle delivered outside this state to a purchaser known by the seller to be a resident of this state was purchased from the seller for storage, use or other consumption in this state and stored, used or otherwise consumed in this state unless the contrary is proved.

(B) The contrary may be proved by:

(i) A statement in writing, signed by the purchaser or an authorized agent of the purchaser and retained by the seller, that the taxable motor vehicle was purchased for storage, use or other consumption exclusively at a designated point or points outside this state; or

(ii) Other evidence satisfactory to the department that the taxable motor vehicle was not purchased for storage, use or other consumption in this state. [2017 c.750 §93]

320.425 Exempt sales; nonresident purchasers; certain auction sales; resale certificates. (1) Notwithstanding ORS 320.405, a seller is not liable for the privilege tax with respect to a taxable motor vehicle that is sold to:

(a) A purchaser who is not a resident of this state; or

(b) A business if the storage, use or other consumption of the taxable motor vehicle will occur primarily outside this state.

(2) Notwithstanding ORS 320.405, a seller is not liable for the privilege tax with respect to an otherwise taxable motor vehicle that is sold at an event that lasts less than seven consecutive days, for which the public is charged admission and at which otherwise taxable motor vehicles are sold at auction.

(3) Notwithstanding ORS 320.405 to 320.420, a resale certificate taken from a purchaser ordinarily engaged in the business of selling taxable vehicles relieves the seller from the obligation to collect and remit transportation project taxes. A resale certificate must be substantially in the form prescribed by the Department of Revenue by rule. [2017 c.750 §94]

320.430 Refunds for excess payments; overpayment applied to outstanding transportation project taxes; refund upon return of vehicle. (1)(a) If the amount of transportation project taxes paid by a seller or purchaser exceeds the amount of taxes due, the Department of Revenue shall refund the amount of the excess.

(b) Except as provided in paragraph (c) of this subsection, the period prescribed for the department to allow or make a refund of any overpayment of transportation project taxes paid shall be as provided in ORS 314.415.

(c) The department shall apply any overpayment of tax first to any amount of transportation project taxes that is then outstanding.

(2)(a) This subsection applies whenever a taxable motor vehicle with respect to which the privilege tax imposed under ORS 320.405 has been paid by the vehicle dealer is returned by or on behalf of the purchaser to the vehicle dealer pursuant to ORS 646A.400 to 646A.418.

(b) The vehicle dealer shall notify the department of the return of the taxable motor vehicle, and the department shall refund the amount of the privilege tax collected with respect to the taxable motor vehicle to the vehicle dealer.

(c) Upon receipt of the refund under this subsection, the vehicle dealer shall return the amount received under paragraph (b) of this subsection to the purchaser. [2017 c.750 §95; 2019 c.491 §2]

320.435 Deposit of revenue from motor vehicle privilege and use taxes. (1) The Department of Revenue shall deposit all revenue collected from the privilege tax imposed under ORS 320.405 and the use tax imposed under ORS 320.410 in a suspense account established under ORS 293.445 for the purpose of receiving the revenue. The department may pay expenses for the administration and enforcement of the privilege and use taxes out of moneys received from the privilege and use taxes. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After payment of administrative and enforcement expenses under subsection (1) of this section and refunds or credits arising from erroneous over-payments, the department shall transfer the balance of the moneys received from the privilege and use taxes as follows:

(a) Moneys attributable to the privilege tax shall be transferred as follows:

(A) $12 million shall be transferred annually to the Zero-Emission Incentive Fund established under section 152, chapter 750, Oregon Laws 2017.

(B) After the transfer required under subparagraph (A) of this paragraph, the balance of the moneys shall be transferred to the Connect Oregon Fund established under ORS 367.080.

(b) Moneys attributable to the use tax shall be transferred to the State Highway Fund. [2017 c.750 §96]

320.445 Collection at point of sale of use tax and excise tax; returns and payment of transportation project taxes. (1) Except as otherwise provided in ORS 320.400 to 320.490 and 803.203, the use tax imposed under ORS 320.410 and the excise tax imposed under ORS 320.415 shall be collected at the point of sale and remitted by each seller that engages in the retail sale of taxable vehicles. Each tax is considered a tax upon the seller that is required to collect the tax, and the seller is considered a taxpayer.

(2) Each seller of taxable vehicles that is liable for transportation project taxes shall file a return with the Department of Revenue, in the form and manner prescribed by the department, on or before the last day of January, April, July and October of each year for the previous calendar quarter. The return shall show the amount of transportation project taxes due for retail sales made during the calendar quarter to which the return relates.

(3) Each seller shall pay the applicable transportation project taxes to the department in the form and manner prescribed by the department, but not later than the date of submitting each quarterly return, without regard to extensions under subsection (5) of this section.

(4) Sellers of taxable vehicles shall file the returns required under this section with respect to the privilege tax imposed under ORS 320.405 and the excise tax imposed under ORS 320.415 regardless of whether any taxes are owed.

(5) The department may extend the time for making any return required under this section if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added to delinquent tax amounts at the rate established under ORS 305.220 from the time the return to which the delinquent tax amounts relate was originally required to be filed to the time of payment. [2017 c.750 §98; 2018 c.93 §13]

320.450 Liability for taxes; amounts held in trust; warrants for collection; conference; appeal. (1) Every seller of taxable vehicles who collects any amount of transportation project taxes shall hold the amount in trust for the State of Oregon and for payment to the Department of Revenue in the manner and at the time provided in ORS 320.445.

(2) If a seller of taxable vehicles fails to remit any amount of transportation project taxes, whether collected or not, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued on the delinquent amount. The warrant shall be issued and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a seller that is assessed under the provisions of ORS 305.265

(12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the seller at any time within three years after the assessment. Within 30 days after the date on which the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues raised in the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days after the date on which the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of liability was mailed, the notice of liability becomes final. The officer, employee or member may appeal the notice of liability to the tax court within 90 days after the notice became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a seller that fails to file a return on the due date, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, the department may issue a notice of determination and assessment to any officer, employee or member of the seller at any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date on which the notice of determination and assessment is mailed. Within 30 days after the date on which the notice of determination and assessment is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall

be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues raised in the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days after the date on which the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. The officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after the notice became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of transportation project taxes.

(b) Notwithstanding the confidentiality provisions of ORS 320.475, if the department determines that more than one officer or employee of a corporation may be held jointly and severally liable for payment of the transportation project taxes, the department may require any or all of the officers or employees to appear before the department for a joint determination of liability. The department shall notify each officer or employee of the time and place set for the determination of liability.

(c) Each individual notified of a joint determination under this subsection must appear and present such information as is necessary to establish the individual's liability or nonliability for payment of the taxes to the department. If an individual who was notified fails to appear, the department shall make the determination on the basis of all the information and evidence presented. The department's determination is binding on all individuals notified and required to appear under this subsection.

(d)(A) If any individual determined to be liable for unpaid transportation project taxes under this subsection appeals the determination to the Oregon Tax Court under ORS 320.470, the individual plaintiff shall implead all individuals required to appear with the plaintiff before the department under this subsection. The department may implead any officer or employee who may be held jointly and severally liable for the payment of the transportation project taxes. Each individual impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the tax court.

(B) The tax court may determine that one or more individuals impleaded under this paragraph are liable for unpaid transportation project taxes without regard to any earlier determination by the department that an impleaded individual was not liable for the unpaid taxes.

(C) If an individual required to appear before the tax court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the tax court shall make its determination on the basis of all the evidence introduced. Notwithstanding ORS 320.475, the evidence introduced in the tax court constitutes a public record and shall be available to the parties and the tax court. The determination of the tax court is binding on all individuals made parties to the action under this subsection.

(e) This subsection may not be construed to preclude a determination by the department or the tax court that more than one officer or employee is jointly and severally liable for unpaid transportation project taxes. [2017 c.750 §99]

320.460 Sellers required to keep records; examination of records by Department of Revenue. (1)(a) A seller of taxable vehicles shall keep receipts, invoices and other pertinent records related to retail sales of taxable vehicles in the form required by the Department of Revenue. Each record shall be preserved for five years from the time to which the record relates, or for as long as the seller retains the taxable vehicles to which the record relates, whichever is later.

(b) During the retention period and at any time prior to the destruction of records, the department may give written notice to the seller not to destroy records described in the notice without written permission of the department.

(c) Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) ORS 314.425 applies to the authority of the Department of Revenue to examine, or cause to be examined by an agent or representative designated by the department for the purpose, any books, papers, records or memoranda bearing upon the matter required to be included in any return required under ORS 320.400 to 320.490 and 803.203 for the purpose of ascertaining the correctness of the return or for the purpose of making an estimate of the taxable sales of the taxpayer. [2017 c.750 §101]

320.465 Subpoena authority of Department of Revenue; enforcement; contempt of court. (1) The Department of Revenue may, by order or subpoena to be served with the same force

and effect and in the same manner as a subpoena is served in a civil action in the circuit court or the Oregon Tax Court, require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out ORS 320.400 to 320.490 and 803.203. The department may require the attendance of any individual having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the individual.

(2)(a) If an individual fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to an investigation or inquiry under ORS 320.400 to 320.490 and 803.203, or to testify to any matter regarding which the individual is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the individual resides or where the individual is for an order to the individual to attend and testify or otherwise comply with the demand or request of the department.

(b) The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the individual against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the individual to whom it is directed in the manner required by this state for service of process, which is required to confer jurisdiction upon the court.

(3) Failure to obey any order issued by the court under this section is contempt of court.

(4) The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state. [2017 c.750 §102]

320.470 Disclosure of information; appeal. (1) Notwithstanding the confidentiality provisions of ORS 320.475, the Department of Revenue may disclose information received under ORS 320.400 to 320.490 and 803.203 to the Department of Transportation for the purposes of carrying out the provisions of ORS 320.410 and 803.203.

(2) The Department of Transportation may disclose information obtained under ORS 320.410 and 803.203 to the Department of Revenue for the purposes of carrying out the provisions of ORS 320.400 to 320.490 and 803.203.

(3) Any officer or employee of the Department of Transportation to whom information is disclosed under subsection (1) of this section is not required to execute a certificate under ORS 314.840 (3)(a).

(4) Except as otherwise provided in ORS 320.400 to 320.490 and 803.203, a person aggrieved by an act or determination of the Department of Revenue or its authorized agent under ORS 320.400 to 320.490 and 803.203 may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the transportation project taxes. [2017 c.750 §103; 2019 c.491 §14]

320.475 Applicability of other provisions of tax law. Except as otherwise provided in ORS 320.400 to 320.490 and 803.203 or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determinations of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the related penalties, and the related procedures, apply to the determinations of taxes, penalties and interest under ORS 320.400 to 320.490 and 803.203. [2017 c.750 §104]

320.480 Department of Revenue to administer and enforce transportation project tax laws; agreement with Department of Transportation for purposes of ORS 803.203. (1) The Department of Revenue shall administer and enforce ORS 320.400 to 320.490 and 803.203.

(2) The department may adopt or establish rules and procedures that the department considers necessary or appropriate for the implementation, administration and enforcement of ORS 320.400 to 320.490 and 803.203 and that are consistent with ORS 320.400 to 320.490 and 803.203.

(3) The Department of Transportation shall enter into an agreement with the Department of Revenue for purposes of the implementation, administration and enforcement by the Department of Transportation of those provisions of ORS 803.203, and rules or procedures adopted or established by the Department of Revenue under this section, that the Department of Transportation and the Department of Revenue determine are necessary for the effective and efficient implementation, administration and enforcement of ORS 803.203. [2017 c.750 §105]

320.485 Agreement with Department of Transportation for collection of use tax. (1) The Department of Revenue and the Department of Transportation shall enter into an agreement pursuant to which the Department of Transportation shall assist the Department of Revenue in the collection of the use tax imposed under ORS 320.410 and any other functions of the Department of Revenue under ORS 320.400 to

320.490 and 803.203 as may be provided under the agreement.

(2) The agreement is not intended to preclude performance by the Department of Revenue of collection functions as from time to time may be required, nor is the agreement intended to preclude the performance of functions by the Department of Transportation, under less formal arrangements made with the Department of Revenue, with respect to the use tax imposed under ORS 320.410 if the functions are not specifically mentioned in the agreement.

(3) The Department of Transportation may contact, consult with and enter into agreements with any public or private person for the purpose of assisting the Department of Revenue in the collection of the use tax under this section.

(4) The collection of taxes under ORS 320.400 to 320.490 and 803.203 by the Department of Transportation does not render the Department of Transportation or the agents and employees of the Department of Transportation responsible for collection of the taxes. [2017 c.750 §106]

320.490 Local government motor vehicle tax moratorium. (1) A local government may not impose a tax described in subsection

(2) of this section unless the tax is:

(a) Authorized by statute; or

(b) Approved by the governing body of the local government and in effect on or before October 6, 2017.

(2) This section applies to:

(a) A tax imposed on the privilege of engaging in the business of selling taxable motor vehicles at retail; and

(b) Any privilege, excise, sales or use tax imposed on or with respect to taxable motor vehicles. [2017 c.750 §111; 2018 c.93 §15]

Chapter 336

STUDENT DRIVER TRAINING

336.790 Definitions for ORS 336.790 to 336.820. As used in ORS 336.790 to 336.820, unless the context requires otherwise:

(1) "Commercial driver training school" means a school operated by a person issued a commercial driver training school certificate by the Department of Transportation under ORS 822.515.

(2) "Private school" means a private or parochial high school.

(3) "Public school" means a common or union high school district, education service district, a community college district and the Oregon School for the Deaf. [Formerly 343.705; 1997 c.118 §1; 1997 c.249 §98; 2001 c.295 §11; 2001 c.706 §1; 2007 c.70 §94; 2007 c.858 §65]

336.795 Purposes of traffic safety education course. A traffic safety education course shall be conducted in order to facilitate the policing of the streets and highways of this state and to reduce the direct cost thereof by educating youthful drivers in safe and proper driving practices. [Formerly 343.710; 2001 c.104 §113]

336.800 School course in traffic safety education; tuition. (1) Any private school, public school, commercial driver training school or county may offer a course in traffic safety education and charge tuition for the course. The curriculum for the traffic safety education course shall be established by the Department of Transportation under ORS 336.802.

(2) A public school may offer a traffic safety education course to private school pupils or to pupils in neighboring public schools that do not offer traffic safety education courses. A public school offering a traffic safety education course to private school pupils or to pupils in neighboring public schools shall adopt written policies and procedures for the admission of the pupils.

(3) A person employed to teach a traffic safety education course must meet qualifications established by the department under ORS 336.802. [Formerly 343.720; 1997 c.383 §9; 1999 c.328 §8; 2001 c.706 §2; 2007 c.858 §66; 2009 c.394 §2; 2011 c.357 §1]

336.802 Traffic safety education course; curriculum; rules. (1) The Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a curriculum for a traffic safety education course under ORS 336.800. The curriculum shall establish standards for a course of instruction to be devoted to the study and practice of rules of the road, the safe and proper operation of motor vehicles, accident prevention and other matters that promote safe and lawful driving habits and reduce the need for intensive highway policing. The course shall include classroom instruction and on-street driving or simulated driving in a driving simulator. No pupil may participate in on-street driving instruction unless the pupil is enrolled in or has completed a course in classroom instruction.

(2) The department shall adopt by rule a procedure to certify that a traffic safety education course meets curriculum standards established under subsection (1) of this section.

(3) The department shall adopt rules establishing qualifications for a person to teach a traffic safety education course.

(4) The department shall adopt rules necessary to administer ORS 336.805 and 336.810. [Formerly 802.345]

Note: 336.802 and 336.804 were added to and made a part of 336.790 to 336.820 by legislative action but were not

added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

336.804 Unavailability of traffic safety education course. (1) If the Department of Transportation determines that a traffic safety education course is not available to the inhabitants of a specific geographic area within this state, the department may offer incentives for providers to offer courses to inhabitants of the area, including:

(a) Waiver of conditions and requirements that are otherwise applicable to providers for the purposes of courses offered to inhabitants of the area; and

(b) Reimbursement rates that are higher than those provided for in ORS 336.805 for courses offered to inhabitants of the area.

(2) If the department determines that a traffic safety education course will not be available to the inhabitants of a specific geographic area within this state despite any incentives offered under subsection (1) of this section, the department may provide a traffic safety education course in the area, or contract with any public or private entity to provide the course on behalf of the department within the area. The costs of providing a traffic safety education course under this subsection shall be paid from the Student Driver Training Fund. [2013 c.102 §3]

Note: See note under 336.802.

336.805 Reimbursement to course provider; limitations on tuition; rules. (1) The Department of Transportation shall reimburse a public school, commercial driver training school or county for the cost of providing a traffic safety education course that is certified by the department. Except as provided in subsection (2) of this section and ORS 336.804, the amount of the reimbursement may not exceed $210 for each pupil completing the course and shall be made in the manner provided by ORS 336.810.

(2) If a public school, commercial driver training school or county that provides a traffic safety education course certified by the department offers reduced tuition based on the income of the pupil or of the pupil's family, the department may reimburse the provider for the reduction. By rule, the department shall establish one or more levels of reduced tuition, eligibility criteria for receiving reduced tuition and conditions for receiving reimbursement for reduced tuition. Any provider that receives reimbursement under this subsection must give notice of the availability of reduced tuition based on income, in all advertisements and printed informational material for the course and on all websites maintained for the course.

(3) If funds available to the department for the Student Driver Training Fund are not adequate to pay all approved claims in full, public schools, commercial driver training schools and counties shall receive a pro rata reimbursement that is based upon the ratio that the total amount of funds available bears to the total amount of funds required for maximum allowable reimbursement.

(4) A public school, commercial driver training school or county seeking reimbursement under this section may not charge tuition in an amount that is greater than:

(a) For a public school or county, the cost to the public school or county of providing the traffic safety education course less the state reimbursement.

(b) For a commercial driving school, an amount determined by the department by rule.

(5) Each public school, commercial driver training school or county seeking reimbursement under this section must keep accurate records of the cost of the traffic safety education course in the manner required under rules adopted by the department under ORS 336.802. [Formerly 343.730; 1997 c.119 §2; 1999 c.328 §9; 2005 c.699 §1; 2007 c.858 §67; 2009 c.394 §1; 2011 c.357 §2; 2013 c.102 §1]

336.807 Reimbursement to Department of Human Services; rules. (1) The Department of Transportation shall reimburse the Department of Human Services for the cost of providing a course of traffic safety education that is:

(a) Certified by the Department of Transportation; and

(b) Provided to children in the legal custody of the Department of Human Services under ORS 419B.337 and in foster homes as defined by ORS 418.625 (3).

(2) Reimbursement may be provided under this section only upon a showing that:

(a) The course is used to comply with the requirements for a provisional driver license issued under ORS 807.065;

(b) The pupil passed the course of traffic safety education; and

(c) The pupil complies with any other requirements established by the Department of Human Services by rule.

(3) Reimbursements made under this section must be made in the manner provided by ORS 336.810. [2009 c.394 §4]

Note: 336.807 was added to and made a part of 336.790 to 336.820 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

336.810 Student Driver Training Fund.

(1) There is created the Student Driver Training Fund, separate and distinct from the General Fund. All payments required under ORS 336.795 to 336.815 and moneys paid into the fund under ORS 802.110 and all expenses incurred in the administration of those sections shall be made to and borne by the fund. Interest earned by the fund shall be credited to the fund.

(2) The Department of Transportation shall annually distribute the funds available in the Student Driver Training Fund in the manner provided in ORS 336.805 and 336.807.

(3) The department shall make periodic studies to determine the effectiveness of traffic safety education courses conducted under authority of ORS 336.790 to 336.820. [Formerly 343.740; 1999 c.328 §10; 2009 c.394 §5]

336.815 Contract with commercial driver training school. Any public school or county may contract with a commercial driver training school for the instruction of students enrolled in a traffic safety education course. [Formerly 343.750; 1997 c.119 §1; 1999 c.328 §11; 2001 c.706 §3; 2011 c.357 §3]

336.820 Sanctions for violation of ORS 336.790 to 336.820. (1) The Department of Transportation may impose sanctions against the provider of a traffic safety education course certified under ORS 336.802 if the department determines that the provider has violated any provision of ORS 336.790 to 336.820 or any rule adopted by the department under ORS 336.790 to 336.820.

(2) Sanctions that may be imposed under this section include, but are not limited to:

(a) A warning;

(b) Reduction or denial of reimbursement under ORS 336.805; and

(c) Suspension or revocation of certification under ORS 336.802.

(3) For the purpose of deciding appropriate sanctions under this section, the department may consider the severity of the violation, the impact of the violation on pupils and public safety, the number of similar or related violations by the provider, whether the violation was willful and the history of prior sanctions imposed against the provider.

(4) Sanctions under this section are in addition to any other penalty provided by law. [2013 c.102 §4]

Chapter 339

SCHOOL ATTENDANCE; TUITION; DISCIPLINE; SAFETY

Compulsory School Attendance

339.030 Exemptions from compulsory school attendance; rules. (1) In the following cases, children may not be required to attend public full-time schools:

(a) Children being taught in a private or parochial school in the courses of study usually taught in kindergarten through grade 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.

(b) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in kindergarten through grade 12 in the public schools.

(c) Children who have received a high school diploma or a modified diploma.

(d) Children being taught for a period equivalent to that required of children attending public schools by a private teacher the courses of study usually taught in kindergarten through grade 12 in the public school.

(e) Children being educated in the children's home by a parent or legal guardian.

(f) Children whose sixth birthday occurred on or before September 1 immediately preceding the beginning of the current school year if the parent or legal guardian of the child notified in writing the school district of which the child is a resident that the parent or legal guardian will delay enrolling the child in a public full-time school for only one school year for the purpose of better meeting the child's needs for cognitive, social or physical development, as determined by the parent or legal guardian.

(g) Children who are present in the United States on a non-immigrant visa and who are attending a private, accredited English language learner program in preparation for attending a private high school or college.

(h) Children excluded from attendance as provided by law.

(2) The State Board of Education and the Higher Education Coordinating Commission by rule shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attendance may be granted to the parent or legal guardian of any child 16 or

17 years of age who is lawfully employed full-time or who is lawfully employed part-time and enrolled in school, a community college or an alternative education program as defined in ORS 336.615. An exemption also may be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 419B.550 to 419B.558. [Amended by 1965 c.100 §276; 1967 c.67 §8; 1971 c.494 §1; 1973 c.728 §1; 1985 c.579 §1; 1989 c.619 §1; 1993 c.546 §138; 1995 c.769 §2; 1999 c.59 §85; 1999 c.717 §1; 2001 c.490 §8; 2007 c.407 §3; 2013 c.747 §190; 2015 c.234 §3; 2017 c.379 §1; 2017 c.412 §1; 2017 c.726 §7]

339.035 Teaching by private teacher, parent or guardian; rules. (1) As used in this section, "education service district" means the education service district that contains the school district of which the child is a resident.

(2) When a child is taught or is withdrawn from a public school to be taught by a parent, legal guardian or private teacher, as provided in ORS 339.030, the parent, legal guardian or private teacher must notify the education service district in writing. In addition, when a child who is taught by a parent, legal guardian or private teacher moves to a new education service district, the parent, legal guardian or private teacher shall notify the new education service district in writing. The education service district shall acknowledge receipt of any notification in writing.

(3) Children being taught as provided in subsection (2) of this section shall be examined at grades 3, 5, 8 and 10 in accordance with the following procedures:

(a) The State Board of Education shall adopt by rule a list of approved comprehensive examinations that are readily available.

(b)(A) The parent or legal guardian shall select an examination from the approved list and arrange to have the examination administered to the child by a qualified neutral person, as defined by rule by the State Board of Education.

(B) If the child was withdrawn from public school, the first examination shall be administered to the child at least 18 months after the date on which the child was withdrawn from public school.

(C) If the child never attended public or private school, the first examination shall be administered to the child prior to the end of grade three.

(c) The person administering the examination shall:

(A) Score the examination; and

(B) Report the results of the examination to the parent or legal guardian.

(d) Upon request of the superintendent of the education service district, the parent or legal guardian shall submit the results of the examination to the education service district.

(4)(a) If the composite test score of the child places the child below the 15th percentile based on national norms, the child shall be given an additional examination within one year of when the first examination was administered.

(b) If the composite test score of the child on the second examination shows a declining score, then the child shall be given an additional examination within one year of when the second examination was administered and the superintendent of the education service district may:

(A) Allow the child to continue to be taught by a parent, legal guardian or private teacher; or

(B) Place the education of the child under the supervision of a person holding a teaching license who is selected by the parent or legal guardian at the expense of the parent or legal guardian. If the composite test score of the child continues to show a declining score, the superintendent of the education service district may:

(i) Allow the child to continue under the educational supervision of a licensed teacher selected by the parent or legal guardian and require that the child be given an additional examination within one year of when the last examination was administered;

(ii) Allow the child to be taught by a parent, legal guardian or private teacher and require that the child be given an additional examination within one year of when the last examination was administered; or

(iii) Order the parent or legal guardian to send the child to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(c) If the parent or legal guardian of the child does not consent to placing the education of the child under the supervision of a licensed teacher who is selected by the parent or legal guardian, then the superintendent of the education service district may order the child to return to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(d) If the composite test score of the child on an examination is equal to or greater than the percentile score on the prior test, the child may be taught by a parent, legal guardian or private teacher and for the next examination be examined pursuant to paragraph (a) of this subsection or subsection (3) of this section.

(5)(a) Notwithstanding the examination requirements of subsections (3) and (4) of this section, the parent or legal guardian of a child with a disability who has an individualized education program and is receiving special education and related services through the school district or who is being educated in accordance with a privately developed plan shall be evaluated for satisfactory educational progress according to the recommendations of the program or plan.

(b) The parent or legal guardian of a child with a disability who was evaluated by service providers selected by the parent or legal guardian based on a privately developed plan shall submit a report of such evaluation to the education service district in lieu of the examination results required by subsections (3) and (4) of this section.

(c) A child with a disability described in this subsection may not be subject to the examination requirements of subsections (3) and (4) of this section unless the examination is recommended in the program or plan in effect for the child. [1985 c.579 §2; 1989 c.619 §4; 1999 c.717 §1a; 2007 c.70 §95; 2013 c.1 §33]

Tuition and Fees

339.141 Tuition prohibited for regular school program; other programs. (1) For the purposes of this section:

(a) "Public charter school" has the meaning given that term in ORS 338.005.

(b) "Regular school program" means the regular curriculum that is provided in the schools of the school district, including public charter schools, and that is provided:

(A) As required full-day sessions in grades 1 through 12;

(B) As required half-day sessions in kindergarten or as optional full-day sessions in kindergarten; and

(C) During the hours and months when the schools of the school district or public charter schools are normally in operation, except summer sessions or evening sessions.

(c) "Tuition" means payment for the cost of instruction and does not include fees authorized under ORS 339.155.

(2) Except as provided in subsection (3) of this section, district school boards and public charter schools may establish tuition rates to be paid by pupils receiving instruction in educational programs, classes or courses of study, including traffic safety education, which are not a part of the regular school program. Tuition charges, if made, shall not exceed the estimated cost to the district or public charter school of furnishing the program, class or course of study.

(3) Except as provided in ORS 336.805 for traffic safety education:

(a) No tuition shall be charged to any resident pupil regularly enrolled in the regular school program for special instruction received at any time in connection therewith.

(b) No program, class or course of study for which tuition is charged, except courses of study beyond the 12th grade, shall be eligible for reimbursement from state funds. [Formerly 336.165; 1999 c.200 §31; 1999 c.328 §12; 2011 c.704 §5]

339.147 When tuition authorized; waiver of tuition and fees. (1)(a) Notwithstanding ORS 339.141, no district school board or public charter school as defined in ORS 338.005 shall require tuition for courses not part of the regular school program, except for traffic safety education, from a pupil who is a member of a low-income family in an amount in excess of what the low-income family may receive as money specifically to be used for payment of such tuition.

(b) As used in this subsection, "low-income family" means a family whose children qualify for free or reduced price school meals under a federal program, including but not limited to the National School Lunch Act and the Child Nutrition Act of 1966, and all their subsequent amendments.

(2) A family that does not qualify under subsection (1) of this section but believes the payment of school tuition is a severe hardship may request the district school board or public charter school to waive in whole or in part the payment of such tuition.

(3) Any parent or guardian who believes that payment of any fee authorized under ORS 339.155 is a severe hardship may request the district school board or public charter school to waive payment of the fee and the board or public charter school shall waive in whole or in part the fee upon a finding of hardship. Consideration shall be given to any funds specifically available to the parent, guardian or child for the payment of fees or other school expenses.

(4) No district school board or public charter school shall impose or collect fees authorized under ORS 339.155 from any student who is a ward of a juvenile court or of the Oregon Youth Authority or the Department of Human Services unless funds are available therefor in the court's, authority's or department's budget.

(5) No district school board or public charter school is required to waive any fee imposed under ORS 339.155 (5)(a) or (d). [Formerly 336.168; 1997 c.249 §99; 1999 c.200 §32; 1999 c.328 §13]

Student Conduct and Discipline

339.254 [1995 c.656 §5; 2003 c.695 §1; 2005 c.209 §30; repealed by 2018 c.76 §17]

339.257 [1999 c.789 §4; 2015 c.716 §3; 2017 c.701 §22; repealed by 2018 c.76 §17]

School Traffic Patrols

339.650 "Traffic patrol" defined for ORS 339.650 "Traffic patrol" defined for ORS 339.650 to 339.665. As used in ORS 339.650 to 339.665 "traffic patrol" means one or more individuals appointed by a public, private or parochial school to protect pupils in their crossing of streets or highways on their way to or from the school by directing the pupils or by cautioning vehicle operators. [Formerly 336.450]

339.655 Traffic patrols authorized; medical benefits; rules. (1) A district school board may do all things necessary, including the expenditure of district funds, to organize, supervise, control or operate traffic patrols. A district school board may make rules relating to traffic patrols which are consistent with rules under ORS 339.660 (1).

(2) The establishment, maintenance and operation of a traffic patrol does not constitute negligence on the part of any school district or school authority.

(3) A district school board may provide medical or hospital care for an individual who is

injured or disabled while acting as a member of a traffic patrol. [Formerly 336.460]

339.660 Rules on traffic patrols; eligibility; authority. (1) To promote safety the State Board of Education after consultation with the Department of Transportation and the Department of State Police, shall make rules relating to traffic patrols.

(2) A member of a traffic patrol:

(a) Shall be at least 18 years of age unless the parent or guardian of the member of the traffic patrol has consented in writing to such membership and ceases to be a member if such consent is revoked.

(b) May display a badge marked "traffic patrol" while serving as a member.

(c) May display a directional sign or signal in cautioning drivers where students use a school crosswalk of the driver's responsibility to obey ORS 811.015. [Formerly 336.470]

339.665 Intergovernmental cooperation and assistance in connection with traffic patrols. (1) The Department of Education and the Department of Transportation shall cooperate with any public, private or parochial school in the organization, supervision, control and operation of its traffic patrol.

(2) The Department of State Police, the sheriff of each county or the police of each city may assist any public, private or parochial school in the organization, supervision, control or operation of its traffic patrol. [Formerly 336.480] 339.860 [Formerly 332.790; 2007 c.858 §69; renumbered 339.877 in 2007]

Chapter 366

STATE HIGHWAYS

State Highway Fund

366.505 Composition and use of highway fund. (1) The State Highway Fund shall consist of:

(a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which is authorized by law and the proceeds thereof to be dedicated to highway purposes.

(b) All moneys and revenues accruing from the licensing of motor vehicles, operators and chauffeurs.

(c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or other volatile and inflammable liquid fuels, except moneys and revenues described in ORS 184.642 (2)(a) that become part of the Department of Transportation Operating Fund.

(d) Moneys and revenues derived from the road usage charges imposed under ORS 319.885.

(e) Moneys and revenues derived from the use tax imposed under ORS 320.410.

(f) Moneys and revenues derived from or made available by the federal government for road construction, maintenance or betterment purposes.

(g) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.

(2) The State Highway Fund shall be deemed and held as a trust fund, separate and distinct from the General Fund, and may be used only for the purposes authorized by law and is continually appropriated for such purposes.

(3) Moneys in the State Highway Fund may be invested as provided in ORS 293.701 to 293.857. All interest earnings on any of the funds designated in subsection (1) of this section shall be placed to the credit of the highway fund. [Amended by 1953 c.125 §5; 1989 c.966 §43; 2001 c.820 §5; 2009 c.821 §30a; 2013 c.781 §22; 2017 c.750 §116]

366.506 Highway cost allocation study; purposes; design; report; use of report by Legislative Assembly. (1) Once every two years, the Oregon Department of Administrative Services shall conduct either a full highway cost allocation study or an examination of data collected since the previous study. The purposes of the study or examination of data are to determine:

(a) The proportionate share that the users of each class of vehicle should pay for the costs of maintenance, operation and improvement of the highways, roads and streets in the state; and

(b) Whether the users of each class are paying that share.

(2) The department may use any study design it determines will best accomplish the purposes stated in subsection (1) of this section. In designing the study the department may make decisions that include, but are not limited to, the methodology to be used for the study, what constitutes a class of vehicle for purposes of collection of data under subsections (1) to (4) of this section and the nature and scope of costs that will be included in the study.

(3) The department may appoint a study review team to participate in the study or examination of data required by subsection

(1) of this section. The team may perform any functions assigned by the department, including but not limited to consulting on the design of the study.

(4) A report on the results of the study or examination of data shall be submitted to the legislative revenue committees and the legislative committees with primary responsibility for

transportation by January 31 of each odd-numbered year.

(5) The Legislative Assembly shall use the report described in subsections (1) to (4) of this section to determine whether adjustments to revenue sources described in section 3a (3), Article IX of the Oregon Constitution, are needed in order to carry out the purposes of section 3a (3), Article IX of the Oregon Constitution. If such adjustments are needed, the Legislative Assembly shall enact whatever measures are necessary to make the adjustments. [2003 c.755 §§1,2]

Note: 366.506 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.507 Modernization program; funding; conditions and criteria. The Department of Transportation shall use an amount equal to the amount of moneys in the State Highway Fund that becomes available for its use from the increase in tax rates created by the amendments to ORS 319.020, 319.530, 825.476 and 825.480 by sections 1, 2 and 10 to 15, chapter 209, Oregon Laws 1985, and an amount equal to one-third of the amount of moneys in the State Highway Fund that becomes available for its use from any increase in tax rates created by the amendments to ORS 319.020, 319.530, 825.476 and 825.480 by sections 5, 6 and 8 to 15, chapter 899, Oregon Laws 1987, and from any increase in tax rates that results from the provisions of sections 16 and 17, chapter 899, Oregon Laws 1987, to establish and operate a state modernization program for highways. The program established under this section and the use of moneys in the program are subject to the following:

(1) The moneys may be used by the department to retire bonds that the department issues for the modernization program under bonding authority of the department.

(2) The intent of the modernization program is to increase highway safety, to accelerate improvements from the backlog of needs on the state highways and to fund modernization of highways and local roads to support economic development in Oregon. Projects both on and off the state highway system are eligible.

(3) Projects to be implemented by the modernization program shall be selected by the Oregon Transportation Commission. The criteria for selection of projects will be established after public hearings that allow citizens an opportunity to review the criteria. The commission may use up to one-half of moneys available under this section for modernization projects selected by the commission from a list of projects of statewide significance.

(4) In developing criteria for selection of projects, the commission shall consider the following:

(a) Projects must be of significance to the state highway system.

(b) Except for projects that are of statewide significance, projects must be equitably distributed throughout Oregon.

(c) Projects may be on county or city arterial roads connecting to or supporting a state highway.

(d) Priority may be given to projects that make a meaningful contribution to increased highway safety.

(e) Priority may also be given to projects that encourage economic development where:

(A) There is commitment by private industry to construct a facility.

(B) There is support from other state agencies.

(f) Priority may be given where there is local government or private sector financial participation, or both, in the improvement in addition to improvements adjacent to the project.

(g) Priority may be given where there is strong local support.

(5) Except as otherwise provided in this subsection, federal moneys or moneys from the State Highway Fund other than those described in this section may be used for the modernization program as long as the total amount used is equal to the amount described in this section. Federal moneys that are appropriated by Congress for specific projects and federal moneys that are allocated by the United States Department of Transportation for specific projects may not be used for the modernization program under this section. [1985 c.209 §9; 1987 c.899 §2; 1999 c.969 §4; 2001 c.766 §§1,2; 2003 c.618 §§14,15; 2005 c.837 §13]

366.508 Legislative findings. (1) The Legislative Assembly finds that:

(a) Estimated highway, road and street revenues from current sources will not adequately meet the need for continued development of a statewide road and bridge system that is economically efficient, provides accessibility to and from commercial, agricultural, industrial, tourist and recreational facilities and enhances the highway safety, environmental quality and land use goals of this state;

(b) Responsibility for the cost of the highway, road and street system should be proportional and should be based on the number and types of vehicles that use the system and on the frequency of their use; and

(c) Expansion, modernization, maintenance, repair, reconstruction, increased capacity and enhanced safety on all roads and bridges is crucial to the economic revitalization of Oregon.

(2) The Legislative Assembly declares that the purpose of this section and ORS 319.020, 319.530, 366.507, 366.739, 366.774, 366.790, 825.476 and 825.480 is:

(a) To enhance the revenue base for the state, counties and cities for continued development and maintenance of the road and bridge system; and

(b) To enhance the revitalization of this state's economy by implementing a long-term plan for the state, counties and cities that establishes priorities for road and bridge improvements. [1987 c.899 §1]

Note: 366.508 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.510 Turning over highway funds to State Treasurer. All state officials charged with the collection of highway funds shall, upon the first of each month after collection, unless a different time is otherwise provided, turn the same over to the State Treasurer, who shall enter such revenues in the account of the highway fund. [Amended by 1967 c.454 §106]

366.512 Collection of certain registration fees for State Parks and Recreation Department Fund. (1) The Department of Transportation shall collect all registration fees for campers, motor homes and travel trailers. Such fees shall be paid into the State Parks and Recreation Department Fund.

(2) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "Motor home" has the meaning given that term in ORS 801.350.

(c) "Travel trailer" has the meaning given that term in ORS 801.565. [1969 c.605 §46; 1979 c.186 §13; 1983 c.338 §918; 1983 c.363 §2; 1985 c.16 §460; 1985 c.395 §6; 1989 c.904 §36; 1993 c.696 §15; 2003 c.14 §161; 2003 c.655 §72; 2005 c.22 §§260,261]

366.514 Use of highway fund for footpaths and bicycle trails. (1) Out of the funds received by the Department of Transportation or by any county or city from the State Highway Fund reasonable amounts shall be expended as necessary to provide footpaths and bicycle trails, including curb cuts or ramps as part of the project. Footpaths and bicycle trails, including curb cuts or ramps as part of the project, shall be provided wherever a highway, road or street is being constructed, reconstructed or relocated. Funds received from the State Highway Fund may also be expended to maintain footpaths and trails and to provide footpaths and trails along other highways, roads and streets.

(2) Footpaths and trails are not required to be established under subsection (1) of this section:

(a) Where the establishment of such paths and trails would be contrary to public safety;

(b) If the cost of establishing such paths and trails would be excessively disproportionate to the need or probable use; or

(c) Where sparsity of population, other available ways or other factors indicate an absence of any need for such paths and trails.

(3) The amount expended by the department or by a city or county as required or permitted by this section shall never in any one fiscal year be less than one percent of the total amount of the funds received from the highway fund. However:

(a) This subsection does not apply to a city in any year in which the one percent equals $250 or less, or to a county in any year in which the one percent equals $1,500 or less.

(b) A city or county in lieu of expending the funds each year may credit the funds to a financial reserve fund in accordance with ORS 294.346, to be held for not more than 10 years, and to be expended for the purposes required or permitted by this section.

(c) For purposes of computing amounts expended during a fiscal year under this subsection, the department, a city or county may record the money as expended:

(A) On the date actual construction of the facility is commenced if the facility is constructed by the city, county or department itself; or

(B) On the date a contract for the construction of the facilities is entered with a private contractor or with any other governmental body.

(4) For the purposes of this chapter, the establishment of paths, trails and curb cuts or ramps and the expenditure of funds as authorized by this section are for highway, road and street purposes. The department shall, when requested, provide technical assistance and advice to cities and counties in carrying out the purpose of this section. The department shall recommend construction standards for footpaths and bicycle trails. Curb cuts or ramps shall comply with the requirements of ORS 447.310 and rules adopted under ORS 447.231. The department shall, in the manner prescribed for marking highways under ORS 810.200, provide a uniform system of signing footpaths and bicycle trails which shall apply to paths and trails under the jurisdiction of the department and cities and counties. The department and cities and counties may restrict the use of footpaths and bicycle trails under their respective jurisdictions to pedestrians and non-motorized vehicles, except that motorized wheelchairs shall be allowed to use footpaths and bicycle trails.

(5) As used in this section, "bicycle trail" means a publicly owned and maintained lane or way designated and signed for use as a bicycle route. [1971 c.376 §2; 1979 c.825 §1; 1983 c.19 §1; 1983 c.338 §919; 1991 c.417 §7; 1993 c.503 §12; 1997 c.308 §36; 2001 c.389 §1]

366.516 Incurring obligations payable from anticipated revenues. The Department of Transportation may incur obligations to be paid from the State Highway Fund for

the construction, reconstruction, improvement, repair or maintenance of highways, streets and bridges in excess of the amount then standing to the credit of the State Highway Fund if in the opinion of the department there will be sufficient funds available for the payment of such obligations when they become due and payable and all other debts, obligations and expenses chargeable against the State Highway Fund including those amounts that are required by law to be set aside from the State Highway Fund for particular purposes. Obligations incurred under the authority of this section need not be payable in the same biennial period during which the obligation is incurred. [1953 c.125 §2]

366.517 Department may determine certain accounting procedures. The Department of Transportation shall determine the accounting period for which any expenditures shall be charged against the State Highway Fund. The department may charge such expenditures against the State Highway Fund at the time the expenditures are actually paid even though the expenditures were obligated during a prior accounting period. The department may keep its accounts on a calendar year basis. [1953 c.125 §3; 1967 c.454 §40]

366.518 Expenditures from highway fund to be reported, budgeted and limited to amounts budgeted. The Department of Transportation shall submit a biennial statement and budget estimate as required by law, and shall limit its expenditures from the State Highway Fund during each biennial period to the total amount of the budget approved according to law; provided, that the word "expenditures" shall mean all money actually paid out or due and payable, but shall not mean liabilities or obligations incurred but not due and payable until a subsequent biennial period. The provisions of any law establishing a Legislative Assembly emergency committee shall apply to expenditures from the State Highway Fund. [1953 c.125 §4]

366.520 Expenses in legalizing state highways. The expenses incurred in any proceeding by the Department of Transportation under ORS 368.201 to 368.221, when applied to state highways, shall be paid out of the highway fund. [Amended by 1981 c.153 §62]

366.522 Appropriations from highway fund for legislative interim committees. It hereby is declared to be the policy and intent of the Legislative Assembly that the total appropriations out of the State Highway Fund made by it for the payment of expenses incurred by the Legislative Assembly by and through its interim committee during any biennium shall be deemed to be the maximum amount necessary for such purpose. Any unexpended and unobligated balance remaining in any such appropriation heretofore or hereafter made shall, after the expiration of the biennium for which the appropriation was made, be returned to the State Highway Fund and may thereafter be used for any purpose authorized by law. [1953 c.84 §1]

366.523 Transportation Project Account. (1) The Transportation Project Account is created in the State Highway Fund. Moneys in the account are continuously appropriated to the Department of Transportation for the purpose of making allocations described in ORS 367.617 and for the purpose of paying bond debt service on Highway User Tax Bonds issued under ORS 367.615. Interest on the account is credited to the State Highway Fund.

(2) Amounts allocated by the Oregon Transportation Commission pursuant to ORS 367.617 for the purposes described in section 64, chapter 865, Oregon Laws 2009, shall be expended from the account.

(3) If at any time the department determines that there are not sufficient funds in the State Highway Fund to pay bond debt service on Highway User Tax Bonds issued under ORS 367.615, moneys in the Transportation Project Account shall be transferred to the State Highway Fund and shall be used by the department to pay bond debt service on Highway User Tax Bonds issued under ORS 367.615.

(4) For the purposes of this section:

(a) "Bond" has the meaning given that term in ORS 367.010.

(b) "Bond debt service" has the meaning given that term in ORS 367.010. [2009 c.865 §63]

Note: 366.523 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Allocations to Counties and Cities

366.739 Allocation of moneys to counties and cities generally. Except as otherwise provided in ORS 366.744, the taxes collected under ORS 319.020, 319.530, 803.090, 803.420, 818.225, 825.476 and 825.480 and the special use fuel license fees collected under ORS 319.535, minus $71.2 million per biennium, shall be allocated 24.38 percent to counties under ORS 366.762 and 15.57 percent to cities under ORS 366.800. [Formerly 366.524; 2014 c.13 §7]

366.742 Repayment of specified bonds; allocation of moneys not needed for repayment. Each biennium, any portion of the $71.2 million referred to in ORS 366.739 that remains after deducting an amount equal to total debt service payments payable on outstanding Highway User Tax Bonds described in ORS 367.620 (2) shall be allocated 50 percent to the Department of Transportation, 30 percent to counties and 20 percent to cities. Moneys allocated to counties and cities under this section shall be distributed in the same manner as moneys allocated under ORS 366.739 are distributed. [Formerly 366.543]

Note: 366.742 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.744 Allocation of moneys from specified increases in title and registration fees and in truck taxes and fees; restrictions on expenditure by Multnomah County. (1) The following moneys shall be allocated as provided in subsection (2) of this section:

(a) The amount attributable to the increase in title fees by the amendments to ORS 803.090 by section 1, chapter 618, Oregon Laws 2003.

(b) The amount attributable to the increase in registration fees by the amendments to ORS 803.420 by section 2, chapter 618, Oregon Laws 2003, except for the amount paid to the State Parks and Recreation Department Fund under ORS 366.512; and

(c) The amount attributable to the increase in fees and tax rates by the amendments to ORS 818.225, 825.476 and 825.480 by sections 3, 4 and 5, chapter 618, Oregon Laws 2003.

(2) The moneys described in subsection

(1) of this section shall be allocated as follows:

(a) 57.53 percent to the Department of Transportation.

(b) 25.48 percent to the department to pay the principal and interest due on bonds authorized under ORS 367.620 (3) that are issued for replacement and repair of bridges on county highways. However, any portion of the 25.48 percent that is not needed for payment of principal and interest on the bonds described in this paragraph shall be allocated to counties. Moneys allocated to counties under this paragraph shall be distributed in the same manner as moneys allocated to counties under ORS 366.739 are distributed.

(c) 16.99 percent to the department to pay the principal and interest due on bonds authorized under ORS 367.620 (3) that are issued for replacement and repair of bridges on city highways. However, any portion of the 16.99 percent that is not needed for payment of principal and interest on the bonds described in this paragraph shall be allocated to cities. Moneys allocated to cities under this paragraph shall be distributed in the same manner as moneys allocated to cities under ORS 366.739 are distributed.

(3) (a) Multnomah County shall spend a majority of moneys distributed to it under subsection (2)(b) of this section on bridges in the county.

(b) Moneys distributed to Multnomah County under subsection (2)(b) of this section that are not spent on bridges shall be distributed equitably within the county, based on the agreement described in paragraph (c) of this subsection.

(c) Multnomah County and the cities within the county shall agree upon the distribution of moneys described in paragraph

(b) of this subsection. When the county and the cities have reached an agreement, they shall notify the Oregon Transportation Commission of the agreement. If the commission does not receive notice of an agreement by June 30, 2004, the Department of Transportation may not distribute moneys that would otherwise go to the county under paragraph

(b) of this subsection. Such moneys shall revert to the State Highway Fund for use by the Department of Transportation. [2003 c.618 §18]

366.747 Allocation of moneys from specified increases in fees. (1) The following moneys shall be allocated as described in subsection (2) of this section:

(a) The amount attributable to the increase in the inspection fee by the amendments to ORS 803.215 by section 47, chapter 618, Oregon Laws 2003.

(b) The amount attributable to any increase in registration plate fees by the amendments to ORS 803.570 by section 48, chapter 618, Oregon Laws 2003.

(c) The amount attributable to the increases in fees for driver licenses, permits and endorsements by the amendments to ORS 807.370 by section 49, chapter 618, Oregon Laws 2003.

(2) The moneys described in subsection

(1) of this section shall be allocated 60 percent to counties and 40 percent to cities. Moneys allocated under this section shall be distributed in the same manner as moneys allocated to counties and cities under ORS 366.739 are distributed. [2003 c.618 §53; 2019 c.491 §45]

366.749 Allocation of moneys resulting from increase in numbers of vehicle registrations, titles and trip permits due to specified actions by vehicle dealers and persons engaged in towing. (1) Each year the Department of Transportation shall determine the increase in the number of vehicle registrations and titles that is attributable to ORS 803.565 and the increase in the number of trip permits issued under ORS 803.600 that is attributable to the amendments to ORS 803.600 by section 3, chapter 600, Oregon Laws 2003.

(2) Notwithstanding any other allocation of moneys to counties and cities under this chapter, the amount of moneys from the increases described in subsection (1) of this section shall be allocated 60 percent to counties and 40 percent to cities. Moneys allocated under this section shall be distributed in the same manner as moneys allocated to counties and cities under ORS 366.739 are distributed. [2003 c.618 §55]

366.752 Allocation of moneys from specified increases in fees. (1) The following moneys shall be allocated as described in subsections (2) and (3) of this section:

(a) The amount attributable to the fee increases by the amendments to ORS 803.090 by section 42, chapter 865, Oregon Laws 2009.

(b) The amount attributable to the fee increases by the amendments to ORS 803.420 by section 43, chapter 865, Oregon Laws 2009.

(c) The amount attributable to the fee increases by the amendments to ORS 803.420 by section 43a, chapter 865, Oregon Laws 2009.

(d) The amount attributable to the fee increases by the amendments to ORS 803.570 by section 44, chapter 865, Oregon Laws 2009.

(e) The amount attributable to the fee increase by the amendments to ORS 803.645 by section 44a, chapter 865, Oregon Laws 2009.

(f) The amount attributable to the increase in fees and tax rates by the amendments to ORS 319.020, 319.530, 818.225, 825.476 and 825.480 by sections 48, 49 and 51 to 53, chapter 865, Oregon Laws 2009.

(2) The moneys described in subsection

(1) of this section shall be allocated first in an amount of $24 million per year in monthly installments to the Department of Transportation for the purposes described in the long-range plan developed pursuant to ORS 184.617. The remainder of the moneys shall be allocated as provided in subsection (3) of this section.

(3) The moneys described in subsection

(1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:

(a) 50 percent to the Department of Transportation.

(b) 30 percent to counties for distribution as provided in ORS 366.762.

(c) 20 percent to cities for distribution as provided in ORS 366.800.

(4) Except as provided in subsection (5) of this section, the moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:

(a) 33 percent for maintenance, preservation and safety of highways.

(b) 15.75 percent for the state modernization program for highways as described in ORS 366.507.

(c) 51.25 percent for the purposes described in ORS 367.620 (3)(c) and section 64, chapter 865, Oregon Laws 2009.

(5) The moneys allocated in subsection

(4) of this section may be used to secure and pay bond debt service on Highway User Tax Bonds under ORS 367.615.

(6) For the purposes of this section:

(a) "Bond" has the meaning given that term in ORS 367.010.

(b) "Bond debt service" has the meaning given that term in ORS 367.010. [2009 c.865 §§56,57,59; 2010 c.30 §§3,4,5; 2017 c.750 §28]

366.762 Appropriation from highway fund for counties. There shall be and hereby are appropriated out of the highway fund annually such sums of money established under ORS 366.739 out of all moneys credited to the State Highway Fund by the State Treasurer between July 1 of any year and June 30 of the following year that are subject to the appropriation under this section by ORS 366.739. The appropriation shall be distributed among the several counties for the purposes provided by law. [Formerly 366.525]

366.764 Basis of allocation of appropriation to counties. The sum designated in ORS 366.762 shall be remitted by warrant to the county treasurers of the several counties. The remittance in any year shall be in proportion of the number of vehicles, trailers, semitrailers, pole trailers and pole or pipe trailers registered in each county, to the total number of such vehicles registered in the state as of December 31 of the preceding year, as indicated by motor vehicles registration records. All such vehicles owned and operated by the state and registered under ORS 805.040, 805.045 and 805.060 shall be excluded from the computation in making the apportionment. [Formerly 366.530]

366.766 Remitting appropriation to counties. The appropriation made by ORS 366.762 shall be remitted to the counties on a monthly basis within 35 days after the end of the month for which a distribution is made in an amount determined in ORS 366.739 and 366.762 and credited to the highway fund for such remittance. [Formerly 366.535]

366.768 Advances from highway fund to county. Upon satisfactory showing before the Department of Transportation by any county that the county does not have sufficient funds with which to pay, when due, bonded indebtedness incurred for highway purposes, the department may certify to such fact. Pursuant to the certificate, a warrant shall be drawn in favor of the county against the highway fund in the amount set out in each certificate, which amount so advanced shall be deducted from the next payment due the county under ORS 366.762 to 366.768. [Formerly 366.540]

366.772 Allocation of moneys to certain counties. (1) Not later than July 31 in each calendar year, the sum of $5,500,000 shall be withdrawn from the appropriation specified in ORS 366.762 and the sum of $250,000 shall be withdrawn from moneys available to the Department of Transportation from the State Highway Fund. The sums withdrawn shall be transferred

to a separate account to be administered by the Department of Transportation.

(2) Not later than July 31 in each calendar year, the sum of $5,750,000 shall be withdrawn from the separate account described in subsection (1) of this section and distributed to counties as follows:

(a) An amount of $750,000 shall be distributed to the following counties in the following amounts:

(A) Harney County.....$ 271,909

(B) Malheur County..... $ 187,947

(C) Morrow County..... $ 108,073

(D) Gilliam County ..... $ 94,036

(E) Sherman County ..... $ 79,700

(F) Wheeler County ..... $ 8,335

(b) An amount of $5,000,000 shall be distributed proportionally to counties with fewer than 200,000 registered vehicles based on a ratio of road miles maintained by each county to registered vehicles.

(3) Moneys allocated as provided in this section may be used only for maintenance, repair and improvement of existing roads that are:

(a) Not a part of the state highway system;

(b) Within counties with fewer than 200,000 registered vehicles; and

(c) Inadequate for the capacity the roads serve or are in a condition detrimental to safety.

(4) All moneys in the account shall be allotted each year. [Formerly 366.541; 2007 c.911 §14; 2017 c.750 §73; 2018 c.93 §6]

Note: 366.772 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.774 Authorized use of allocation to counties; report by counties to Legislative Assembly. (1) Moneys paid to counties under ORS 366.762 to 366.768 shall be used only for the purposes stated in sections 3 and 3a, Article IX of the Oregon Constitution, and the statutes enacted pursuant thereto including ORS 366.514.

(2) Counties receiving moneys under ORS 366.762 to 366.768 shall report annually to the Legislative Assembly the expenditures of those moneys in each of the following areas:

(a) Administration;

(b) Bicycle paths;

(c) Construction and expansion;

(d) Operations and maintenance;

(e) Other payments;

(f) Payments to other governments; and

(g) Repair and preservation.

(3) The Association of Oregon Counties shall make an annual report to the Legislative Assembly presenting the information required by subsection (2) of this section. The report shall be made to the committees of the Legislative Assembly with primary jurisdiction over transportation matters.

(4) For the purposes of subsection (2) of this section, each county shall account for moneys paid to the county under ORS 366.762 to 366.768 separately from any other county moneys. [Formerly 366.542]

Note: 366.774 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.800 Appropriation from highway fund for cities; amount and source. There shall be and hereby are appropriated out of the highway fund annually such sums of money established under ORS 366.739 out of all moneys credited to the highway fund by the State Treasurer between July 1 of any year and June 30 of the following year that are subject to the appropriation under this section by ORS 366.739. The appropriation shall be distributed among the several cities as provided in ORS 366.785 to 366.820. [Amended by 1967 c.463 §5; 1979 c.344 §10; 1981 s.s. c.3 §109; 1983 c.164 §4; 1983 c.338 §922; 1985 c.209 §5]

366.805 Allocation of appropriation to cities; small city advisory committee. (1) Except as provided in subsection (2) of this section, the appropriation specified in ORS 366.800 shall be allocated to the cities as provided in this subsection. The moneys subject to allocation under this subsection shall be distributed by the Department of Transportation according to the following:

(a) The moneys shall be distributed to all the cities.

(b) Each city shall receive such share of the moneys as its population bears to the total population of the cities.

(2) Each year, the sum of $2,500,000 shall be withdrawn from the appropriation specified in ORS 366.800 and $2,500,000 shall be withdrawn from moneys available to the Department of Transportation from the State Highway Fund. The sums withdrawn shall be transferred to a separate account to be administered by the Department of Transportation. The following apply to the account described in this subsection:

(a) Money from the account shall be used only upon streets:

(A) That are not a part of the state highway system;

(B) That are within cities with populations of 5,000 or fewer persons; and

(C) That are inadequate for the capacity the streets serve or are in a condition detrimental to safety.

(b) All moneys in the account shall be allotted each year.

(c) Subject to paragraph (d) of this subsection, the department shall determine the distribution of the expenditures after considering applications from the cities submitted to the department.

(d) The department may enter into agreements with cities upon the advice and counsel of organizations representing cities to establish:

(A) The method of allotting moneys from the account; or

(B) The method of considering applications from cities and determining distribution based on the applications.

(3) The Director of Transportation shall establish a small city advisory committee. The advisory committee shall review applications submitted by small cities and shall recommend applications for approval to the director. In consultation with the League of Oregon Cities, the director shall appoint to the advisory committee one representative of a small city in each of the five regions of this state.

(4) For purposes of this section:

(a) Region one consists of Clackamas, Hood River, Multnomah and Washington Counties.

(b) Region two consists of Benton, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties.

(c) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties.

(d) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Sherman, Wasco and Wheeler Counties.

(e) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties. [Amended by 1959 c.170 §1; 1985 c.123 §§1,2; 1989 c.865 §6; 1991 c.355 §1; 2017 c.750 §72]

366.810 Payment of appropriation to cities. Funds accrued and payable to cities under ORS 366.785 to 366.820 shall be remitted on a monthly basis within 35 days after the end of the month for which a distribution is made by the Department of Transportation to the financial officer of each city. The funds appropriated shall be apportioned on or before the last day of each month by the department, which shall certify to the apportionment. Upon such certification, warrants shall be drawn payable to the cities in the amounts set out. [Amended by 1967 c.454 §44; 1973 c.436 §1; 1975 c.527 §3]

Chapter 377

MOTORIST INFORMATION SIGNS

377.737 Giving or receiving compensation or value for signs; rules. (1) To determine whether a person is giving or receiving, or has given or received, compensation or anything of value as defined by the Department of Transportation by rule for displaying a sign, the department may issue an investigative demand upon any person it reasonably believes may have relevant documents or information.

(2) If any person after being served an investigative demand under subsection (1) of this section fails or refuses to obey the demand, the Department of Transportation may request that the Department of Justice apply to an appropriate circuit court and, after a hearing, request an order requiring compliance with the demand. [2007 c.199 §2]

Note: 377.737 was added to and made a part of 377.700 to 377.844 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

377.753 Permits for outdoor advertising signs; rules. (1) Notwithstanding the provisions of ORS 377.715, 377.725 and 377.770, the Department of Transportation may issue permits for outdoor advertising signs placed on benches or shelters erected or maintained for use by customers of a mass transit district, a transportation district or other public transportation agency.

(2) The department shall determine by rule the fees and criteria for the number, size, and location of such signs but the department may not issue a permit for a sign that is visible from an interstate highway. [2007 c.199 §3]

Note: 377.753 was added to and made a part of 377.700 to 377.844 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

Chapter 383

TOLLWAYS

383.003 Definitions for ORS 383.003 to 383.075. As used in ORS 383.003 to 383.075:

(1) "Department" means the Department of Transportation.

(2) "Electronic toll collection system" means a system that records use of a tollway by electronic transmissions to or from the vehicle using the tollway and that collects tolls, or that is capable of charging an account established by a person for use of the tollway.

(3) "Photo enforcement system" means a system of sensors installed to work in conjunction with an electronic toll collection system and other

traffic control devices and that automatically produces videotape or one or more photographs, micro-photographs or other recorded images of a vehicle in connection with the collection or enforcement of tolls.

(4) "Private entity" means any nongovernmental entity, including a corporation, partnership, company or other legal entity, or any natural person.

(5) "Related facility" means any real or personal property that:

(a) Will be used to operate, maintain, renovate or facilitate the use of the tollway;

(b) Will provide goods or services to the users of the tollway; or

(c) Can be developed efficiently when tollways are developed and will generate revenue that may be used to reduce tolls or will be deposited in the State Tollway Account.

(6) "Toll" means any fee or charge for the use of a tollway.

(7) "Toll booth collections" means the manual or mechanical collection of cash or charging of an account at a toll plaza, toll booth or similar fixed toll collection facility.

(8) "Tollway" means any roadway, path, highway, bridge, tunnel, railroad track, bicycle path or other paved surface or structure specifically designed as a land vehicle transportation route, the construction, operation or maintenance of which is wholly or partially funded with toll revenues resulting from an agreement under ORS 383.005.

(9) "Tollway operator" means the unit of government or the private entity that is responsible for the construction, reconstruction, installation, improvement, financing, maintenance, repair and operation of a tollway or a related facility.

(10) "Tollway project" means any capital project involving the acquisition of land for, or the construction, reconstruction, improvement, installation, development or equipping of, a tollway, related facilities or any portion thereof.

(11) "Unit of government" means any department or agency of the federal government, any state, any department or agency of a state, any bistate entity created by agreement under ORS 190.420 or other law for the purposes of the Interstate 5 bridge replacement project, and any city, county, district, port or other public corporation organized and existing under statutory law or under a voter-approved charter. [1995 c.668 §2; 2007 c.531 §3; 2013 c.4 §9]

383.004 Establishment of tolls; rules.

(1) Except as provided in subsection (2) of this section, a toll may not be established unless the Oregon Transportation Commission has reviewed and approved the toll. The commission shall adopt rules specifying the process under which proposals to establish tolls will be reviewed. When reviewing a proposal to establish tolls, the commission shall take into consideration:

(a) The amount and classification of the traffic using, or anticipated to use, the tollway;

(b) The amount of the toll proposed to be established for each class or category of tollway user and, if applicable, the different amounts of the toll depending on time and day of use;

(c) The extent of the tollway, including improvements necessary for tollway operation and improvements necessary to support the flow of traffic onto or off of the tollway;

(d) The location of toll plazas or toll collection devices to collect the toll for the tollway;

(e) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;

(f) The amount of indebtedness incurred for the construction of the tollway and debt service requirements, if any;

(g) The value of assets, equipment and services required for the operation of the tollway;

(h) The period of time during which the toll will be in effect;

(i) The process for altering the amount of the toll during the period of operation of the tollway;

(j) The method of collecting the toll; and

(k) The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway.

(2)(a) Nothing in ORS 383.003 to 383.075 prohibits a city or county from establishing a toll on any highway, as defined in ORS 801.305, that the city or county has jurisdiction over as a road authority pursuant to ORS 810.010.

(b) Nothing in ORS 383.003 to 383.075 prohibits Multnomah County from establishing a toll on the bridges across the Willamette River that are within the boundaries of the City of Portland and that are operated and maintained by Multnomah County as required under ORS 382.305 and 382.310. [2007 c.531 §2; 2009 c.385 §3]

383.005 Agreements for tollway projects; operation of projects. (1) For purposes of the acquisition, design, construction, reconstruction, operation or maintenance and repair of tollway projects, the Department of Transportation may enter into any combination of contracts, agreements and other arrangements with any one or more private entities or units of government, or any combination thereof, including but not limited to the following:

(a) Design-build contracts with private entities pursuant to which a portion or all aspects of the design, construction and installation of all or any portion of a tollway project are accomplished by the private entity;

(b) Lease agreements, lease-purchase agreements and installment sale arrangements for the lease, sale or purchase of real and personal property for tollway projects by the state from private entities or units of government or by private entities or units of government from the state;

(c) Licenses, franchises or other agreements for the periodic or long-term operation or maintenance of a tollway project;

(d) Financing agreements for a tollway project pursuant to which the department borrows from, or makes any loan, grant, guaranty or other financing arrangement to or with, a private entity or unit of government; and

(e) Agreements for purchase or acquisition of fee ownership, easements, rights of way or any other interests in land upon which a tollway project is to be built.

(2) The department may operate tollway projects and impose and collect tolls on any tollway project the department operates. Any private entity or unit of government that operates a tollway project pursuant to an agreement with the department may impose and collect tolls on the tollway project. [1995 c.668 §3; 2001 c.844 §7; 2013 c.4 §14]

383.006 Authority of tollway operator. A tollway operator may operate toll booth collections, an electronic toll collection system, a photo enforcement system or any combination of toll booth collections, an electronic toll collection system and a photo enforcement system. [2007 c.531 §6]

383.009 State Tollway Account; sources; uses. (1) There is hereby established the State Tollway Account as a separate account within the State Highway Fund. The State Tollway Account shall consist of:

(a) All moneys and revenues received by the Department of Transportation from or made available by the federal government to the department for any tollway project or for the operation or maintenance of any tollway;

(b) Any moneys received by the department from any other unit of government or any private entity for a tollway project or from the operation or maintenance of any tollway;

(c) All moneys and revenues received by the department from any loan made by the department for a tollway project pursuant to ORS 383.005, and from any lease, agreement, franchise or license for the right to the possession and use, operation or management of a tollway project;

(d) All tolls and other revenues received by the department from the users of any tollway project;

(e) The proceeds of any bonds authorized to be issued for tollway projects;

(f) Any moneys that the department has legally transferred from the State Highway Fund to the State Tollway Account for tollway projects;

(g) All moneys and revenues received by the department from all other sources that by donation, grant, contract or law are allocated or dedicated for tollway projects;

(h) All interest earnings on investments made from any of the moneys held in the State Tollway Account; and

(i) All civil penalties and administrative fees paid to the department from the enforcement of tolls.

(2) Moneys in the State Tollway Account may be used by the department for the following purposes:

(a) To finance preliminary studies and reports for any tollway project;

(b) To acquire land to be owned by the state for tollways and any related facilities therefor;

(c) To finance the construction, renovation, operation, improvement, maintenance or repair of any tollway project;

(d) To make grants or loans to a unit of government for tollway projects;

(e) To make loans to private entities for tollway projects;

(f) To pay the principal, interest and premium due with respect to, and to pay the costs connected with the issuance or ongoing administration of any bonds or other financial obligations authorized to be issued by, or the proceeds of which are received by, the department for any tollway project;

(g) To provide a guaranty or other security for any bonds or other financial obligations, including but not limited to financial obligations with respect to any bond insurance, surety or credit enhancement device issued or incurred by the department, a unit of government or a private entity, for the purpose of financing a single tollway project or any related group or system of tollways or related facilities; and

(h) To pay the costs incurred by the department in connection with its oversight, operation and administration of the State Tollway Account, the proposals and projects submitted under ORS 383.015 and the tollway projects financed under ORS 383.005.

(3) For purposes of paying or securing bonds or providing a guaranty, surety or other security authorized by subsection (2)(g) of this section, the department may:

(a) Irrevocably pledge all or any portion of the amounts that are credited to, or are required to be credited to, the State Tollway Account;

(b) Establish sub-accounts in the State Tollway Account, and make covenants regarding the

credit to and use of amounts in those accounts and sub-accounts; and

(c) Establish separate trust funds or accounts and make covenants to transfer to those separate trust funds or accounts all or any portion of the amounts that are required to be deposited in the State Tollway Ac count.

(4) Notwithstanding any other provision of ORS 383.001 to 383.075, the department shall not pledge any funds or amounts at any time held in the State Tollway Account as security for the obligations of a private entity unless the department has entered into a binding and enforceable agreement that provides the department reasonable assurance that the department will be repaid, with appropriate interest, any amounts that the department is required to advance pursuant to that pledge.

(5) Moneys in the State Tollway Account are continuously appropriated to the department for purposes authorized by this section. [1995 c.668 §4; 2005 c.22 §264; 2007 c.531 §12; 2013 c.4 §15]

383.014 Interstate system compatibility; rules. The Oregon Transportation Commission shall set standards by rule for electronic toll collection systems and photo enforcement systems used on tollways in this state to ensure that systems used in Oregon and systems used in the State of Washington are compatible to the extent technology permits. [2007 c.531 §8]

383.015 Initiation of project; fees; rules; conditions for authorization; studies. (1) Tollway projects may be initiated by the Department of Transportation, by a unit of government having an interest in the installation of a tollway, or by a private entity interested in constructing or operating a tollway project. The department shall charge an administrative fee for reviewing and considering any tollway project proposed by a private entity, which the department shall establish by rule. All such administrative fees shall be deposited into the State Tollway Account.

(2) The department shall adopt rules pursuant to which it will consider authorization of a tollway project. The rules shall require consideration of:

(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

(b) The probable impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general;

(c) The extent to which funding other than state funding is available for the proposed tollway project;

(d) The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project, including the repayment of any loans to be made from moneys in the State Tollway Account;

(e) With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:

(A) The relative importance of the proposed tollway project compared to other proposed tollways; and

(B) Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects; and

(f) The effects of tollway implementation on community and local street traffic.

(3) Notwithstanding any other provision of ORS 383.001 to 383.075, no tollway project shall be authorized unless the department finds that either:

(a) Based on the department's estimate of present and future traffic patterns, the revenues generated by the tollway project will be sufficient, after payment of all obligations incurred in connection with the acquisition, construction and operation of such tollway project, to ensure the continued maintenance, repair and reconstruction of the tollway project without the contribution of additional public funds; or

(b) The revenues generated by the tollway project will be at least sufficient to pay its operational expenses and a portion of the costs of its construction, maintenance, repair and reconstruction, and the importance of the tollway project to the welfare or economy of the state is great enough to justify the use of public funding for a portion of its construction, maintenance, repair and reconstruction.

(4) If the department finds that a proposed tollway project qualifies for authorization under this section, the department may conduct or cause to be conducted any environmental, geological or other studies required by law as a condition of construction of the tollway project. The costs of completing the studies for any proposed tollway project may be paid from moneys in the State Tollway Account that are reimbursed from the permanent financing for the project. [1995 c.668 §7; 1997 c.390 §2; 2007 c.531 §17; 2013 c.4 §16]

383.025 Certain information provided to Department of Transportation exempt from disclosure. Sensitive business, commercial or financial information presented to the Department of Transportation by a private entity for the purpose of determining the feasibility of the entity's participation in a tollway project is exempt from disclosure under ORS 192.311 to 192.478. [2001 c.844 §5]

383.035 Failure to pay toll; penalty. (1) A person who fails to pay a toll, established pursuant to ORS 383.004, shall pay to the Department of Transportation the amount of the toll, a civil penalty of not more than $25 and

an administrative fee established by the tollway operator not to exceed the actual cost of collecting the unpaid toll.

(2) In addition to any other penalty, the department shall refuse to renew the motor vehicle registration of the motor vehicle owned by a person who has not paid the toll, the civil penalty and any administrative fee charged under this section.

(3) This section does not apply to:

(a) A person operating a vehicle owned by a unit of government or the tollway operator;

(b) A person who is a member of a category of persons exempted by the Oregon Transportation Commission from paying a toll; or

(c) A person who is a member of a category of persons made eligible by the commission for paying a reduced toll, to the extent of the reduction.

(4) Subsection (1) of this section does not apply to a person who fails to pay a toll established under section 8, chapter 4, Oregon Laws 2013.

(5)(a) Upon receiving a request from the State of Washington, or from the State of Washington's designee that has contracted with the State of Washington to collect tolls, the department shall provide information to identify registered owners of vehicles who fail to pay a toll established under section 8, chapter 4, Oregon Laws 2013.

(b) If the State of Washington, or the State of Washington's designee that has contracted with the State of Washington to collect tolls, gives notice to the department that a person has not paid a toll established under section 8, chapter 4, Oregon Laws 2013, or a civil penalty or administrative fee imposed by reason of failure to pay the toll, the department shall refuse to renew the Oregon motor vehicle registration of the motor vehicle operated by the person at the time of the violation.

(c) The department may renew an Oregon motor vehicle registration of a person described in paragraph (b) of this subsection upon receipt of a notice from the State of Washington, or from the State of Washington's designee, indicating that all tolls, civil penalties and other administrative fees owed by the person have been paid. [2007 c.531 §4; 2013 c.4 §10]

383.045 Evidence from photo enforcement system; payment of fees. (1) Except as provided in subsection (2) of this section, a recorded image of a vehicle and the registration plate of the vehicle produced by a photo enforcement system at the time the driver of the vehicle did not pay a toll shall be prima facie evidence that the registered owner of the vehicle is the driver of the vehicle.

(2) If the registered owner of a vehicle is a person in the vehicle rental or leasing business, the registered owner may elect to identify the person who was operating the vehicle at the time the toll was not paid or to pay the toll, civil penalty and administrative fee.

(3) A registered owner of a vehicle who pays the toll, civil penalty and administrative fee is entitled to recover the same from the driver, renter or lessee of the vehicle. [2007 c.531 §10]

383.055 Assessment and collection of unpaid tolls; rules. The Oregon Transportation Commission shall establish a process by rule for the assessment of unpaid tolls and the collection of civil penalties and administrative fees under ORS 383.035. [2007 c.531 §9]

383.065 Information provided for toll booth collections. The Department of Transportation may provide to a tollway operator the information needed by the operator for toll booth collections or for the operation of an electronic toll collection system or a photo enforcement system. [2007 c.531 §7]

383.075 Driver records and information used to collect and enforce tolls. (1) Except as provided in subsections (2) and (3) of this section, records and information used to collect and enforce tolls are exempt from disclosure under public records law and are to be used solely for toll collection and traffic management by the Department of Transportation.

(2) Information collected or maintained by an electronic toll collection system may not be disclosed to anyone except:

(a) The owner of an account that is charged for the use of a tollway;

(b) A financial institution, as necessary to collect tolls owed;

(c) Employees of the department;

(d) The tollway operator and authorized employees of the operator;

(e) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and

(f) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls.

(3) Information collected or maintained by a photo enforcement system may not be disclosed to anyone except:

(a) The registered owner or apparent driver of the vehicle;

(b) Employees of the department;

(c) The tollway operator and authorized employees of the operator;

(d) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and

(e) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls. [2007 c.531 §11]

Chapter 401

EMERGENCY MANAGEMENT AND SERVICES

401.025 Definitions for ORS chapter 401.025 Definitions for ORS chapter 401. As used in this chapter:

(1) "Emergency" means a human created or natural event or circumstance that causes or threatens widespread loss of life, injury to person or property, human suffering or financial loss, including but not limited to:

(a) Fire, explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, acts of terrorism and war; and

(b) A rapid influx of individuals from outside this state, a rapid migration of individuals from one part of this state to another or a rapid displacement of individuals if the influx, migration or displacement results from the type of event or circumstance described in paragraph (a) of this subsection.

(2) "Emergency service agency" means an organization within a local government that performs essential services for the public's benefit before, during or after an emergency, such as law enforcement, fire control, health, medical and sanitation services, public works and engineering, public information and communications.

(3) "Emergency services" means activities engaged in by state and local government agencies to prepare for an emergency and to prevent, minimize, respond to or recover from an emergency, including but not limited to coordination, preparedness planning, training, inter-agency liaison, fire fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures defined as "civil defense" in 50 U.S.C. app. 2252.

(4) "Local government" has the meaning given that term in ORS 174.116.

(5) "Major disaster" means any event defined as a "major disaster" under 42 U.S.C. 5122(2). [1983 c.586 §2; 1985 c.733 §21; 1987 c.373 §84; 1989 c.361 §8; 1991 c.418 §1; 1991 c.956 §10; 1993 c.187 §1; 1999 c.935 §29; 2005 c.825 §9; 2007 c.97 §10; 2007 c.223 §5; 2007 c.740 §20; 2009 c.718 §17]

Chapter 408

ADVANTAGES GIVEN VETERANS IN PUBLIC EMPLOYMENT

408.225 Definitions for ORS 408.225 to 408.237. (1) As used in ORS 408.225 to 408.237:

(a)(A) "Civil service position" means any position for which a hiring or promotion decision is made or required to be made based on the results of a merit based, competitive process that includes, but is not limited to, consideration of an applicant's or employee's relative ability, knowledge, experience and other skills.

(B) A "civil service position" need not be labeled a "civil service position."

(b) "Combat zone" means an area designated by the President of the United States by executive order in which, on the dates designated by executive order, the Armed Forces of the United States are or have engaged in combat.

(c) "Disabled veteran" means a veteran who has a disability rating from the United States Department of Veterans Affairs, a veteran whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty or a veteran who was awarded the Purple Heart for wounds received in combat.

(d) "Honorable conditions" has the meaning given that term in rules adopted by the Department of Veterans' Affairs.

(e) "Public employer" means a public body, as that term is defined in ORS 174.109, and any person authorized to act on behalf of the public body, with respect to control, management or supervision of any employee.

(f) "Veteran" means a person who:

(A) Served on active duty with the Armed Forces of the United States:

(i) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released under honorable conditions;

(ii) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;

(iii) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;

(iv) For 178 days or less and was discharged or released from active duty under honorable

conditions and has a disability rating from the United States Department of Veterans Affairs; or

(v) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;

(B) Received a combat or campaign ribbon or an expeditionary medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions; or

(C) Is receiving a nonservice-connected pension from the United States Department of Veterans Affairs.

(2) As used in subsection (1)(f) of this section, "active duty" does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or a National Guard unit. [1977 c.854 §1; 1981 c.493 §1; 1989 c.507 §1; 1991 c.67 §98; 1993 c.18 §97; 1995 c.777 §1; 2005 c.99 §1; 2005 c.831 §7; 2007 c.71 §103; 2007 c.525 §1; 2009 c.41 §25; 2009 c.370 §1; 2011 c.29 §1; 2013 c.16 §1; 2015 c.531 §5]

Chapter 419C

JUVENILE COURT PROCEEDINGS

Waiver

419C.340 Authority to waive youth to adult court. In the circumstances set forth in ORS 419C.349, 419C.352, 419C.364, 419C.367 and 419C.370, the court may waive the youth to the appropriate court handling criminal actions, or to municipal court. [1993 c.33 §211; 1993 c.546 §76]

419C.358 Consolidation of nonwaivable and waivable charges. (1) Except as otherwise provided in subsection (2) of this section and ORS 137.707 (6), when a person is waived for prosecution as an adult, the person shall be waived only on the actual charges justifying the waiver under ORS 419C.349 or 419C.352, as the case may be.

(2) Any nonwaivable charges arising out of the same act or transaction as the waivable charge shall be consolidated with the waivable charge. [1993 c.33 §216; 1993 c.546 §82; 2019 c.634 §19]

419C.361 Disposition of nonwaivable consolidated charges and lesser included offenses. (1)(a) Notwithstanding that the juvenile court has waived the case under ORS 419C.349, 419C.352, 419C.364 or 419C.370, the court of waiver shall return the case to the juvenile court unless an accusatory instrument is filed in the court of waiver alleging, in the case of a person under 15 years of age, a crime listed in ORS 419C.352 or, in the case of any other person, a crime described in ORS 419C.349 (1).

(b) When a trial has been held in the court of waiver upon an accusatory instrument alleging a crime listed in ORS 419C.349 (1)(b) or 419C.352, as the case may be, and the person is found guilty of any lesser included offense that is not itself a waivable offense, the trial court shall not sentence the defendant therein, but the trial court shall order a presentence report to be made in the case, shall set forth in a memorandum such observations as the court may make regarding the case and shall then return the case to the juvenile court in order that the juvenile court make disposition in the case based upon the guilty finding in the court of waiver. Disposition shall be as if the juvenile court itself had found the youth to be in its jurisdiction pursuant to ORS 419C.005. The records and consequences of the case shall, in all respects, be as if the juvenile court itself had found the youth to be in its jurisdiction pursuant to ORS 419C.005. When the person is found guilty of a nonwaivable charge that was consolidated with a waivable charge under ORS 419C.358, the case shall be returned to the juvenile court for disposition as provided in this subsection for lesser included offenses.

(2) Nothing in this section or ORS 419C.358 applies to a waiver under ORS 419C.364 or 419C.370. [1993 c.33 §217; 1993 c.546 §83; 2019 c.634 §20]

419C.370 Waiver of motor vehicle, boating, game, violation and property cases. (1) The juvenile court may enter an order directing that all cases involving:

(a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws be waived to criminal or municipal court;

(b) An offense classified as a violation under the laws of this state or a political subdivision of this state be waived to municipal court if the municipal court has agreed to accept jurisdiction; and

(c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be waived to municipal court if the municipal court has agreed to accept jurisdiction.

(2) Cases waived under subsection (1) of this section are subject to the following:

(a) That the criminal or municipal court prior to hearing a case, other than a case involving a parking violation, in which the defendant is or appears to be under 18 years of age notify the juvenile court of that fact; and

(b) That the juvenile court may direct that any such case be waived to the juvenile court for further proceedings.

(3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted

of a property offense, the municipal court may impose any sanction authorized for the offense except for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

(b) When a person has been waived under subsection (1) of this section and fails to appear as summoned or is placed on probation and is alleged to have violated a condition of the probation, the juvenile court may recall the case to the juvenile court for further proceedings. When a person has been returned to juvenile court under this paragraph, the juvenile court may proceed as though the person had failed to appear as summoned to the juvenile court or had violated a juvenile court probation order under ORS 419C.446.

(4) Records of cases waived under subsection (1)(c) of this section are juvenile records for purposes of expunction under ORS 419A.260. [1993 c.33 §220; 1993 c.546 §86; 1995 c.481 §1; 1999 c.158 §1; 1999 c.615 §1; 2003 c.396 §104]

419C.372 Handling of motor vehicle, boating or game cases not requiring waiver. If the youth's conduct consists, or is alleged to consist, of a violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws and it appears to the court that the nature of the offense and the youth's background are such that a proceeding as provided in this chapter is not warranted, the court may handle:

(1) Cases involving boating laws or game laws as provided in ORS 419C.374.

(2) Cases involving the use or operation of a motor vehicle as provided under ORS 809.412. [1993 c.33 §221; 1993 c.546 §95]

419C.374 Alternative conduct of proceedings involving traffic, boating and game cases. (1) A petition relating to boating or game offenses shall be filed as provided in ORS 419C.250, 419C.255 and 419C.258. Motor vehicle offenses are subject to ORS 809.412.

(2) Summons as provided in ORS 419C.300 shall be issued to the parent or other person having physical custody of the youth, requiring the parent or other person to appear with the youth before the court at the time and place stated in the summons.

(3) The summons may be served as provided in ORS 419C.309, 419C.312 and 419C.315 or by mailing a copy thereof to the parent or other person having physical custody of the youth. If the summons is served personally, a warrant may be issued as provided in ORS 419C.320.

(4) A hearing shall be held as provided in ORS 419C.142, 419C.280 and 419C.400. At the termination of the hearing, if the court finds the matters alleged in the petition to be true, it may enter an order finding the youth to be a:

(a) Youth motor vehicle offender and dispose of the case as provided in ORS 809.412; or

(b) Youth boating law offender or a game law offender and may dispose of the case as provided in subsection (5) of this section.

(5) In a proceeding under this chapter, the juvenile court may suspend a hunting or fishing license or permit where a game violation is involved and may make such other recommendations where a boating violation is involved. [1993 c.33 §222; 1995 c.422 §79]

Disposition

(Suspension of Driving Privileges)

419C.472 Suspension of driving privileges. (1) The court may order that the driving privileges of a youth be suspended if:

(a) The petition alleges that the youth is within the jurisdiction of the court for violating ORS 471.430 or 475B.316;

(b) The youth has been issued a summons under ORS 419C.306; and

(c) The youth fails to appear as required by the summons.

(2) When a court issues an order under subsection (1) of this section:

(a) The court shall send a notice to the Department of Transportation certifying that the youth failed to appear and that the court has ordered the suspension of the driving privileges of the youth; and

(b) Neither the state nor a juvenile department counselor may file a petition under ORS 419C.250 alleging that the youth is within the jurisdiction of the court for having committed an act that if committed by an adult would constitute a violation of ORS 153.992. [2001 c.817 §5; 2017 c.20 §7]

Chapter 447

PARKING SPACES FOR PERSONS WITH DISABILITIES

447.233 Accessible parking space requirements; inspection of spaces; violation. (1) The Director of the Department of Consumer and Business Services shall include in the state building code, as defined in ORS 455.010, a requirement that the number of accessible parking spaces specified in subsection (2) of this section be provided for affected buildings subject to the state building code and that the spaces be signed as required by subsection (2) of this section. Spaces may also be marked in a manner specified in the state building code.

(2)(a) The number of accessible parking spaces shall be:

Total Parking In Lot	Required Minimum Number of Accessible Spaces	Required Minimum Number of Van Accessible Spaces	Required Minimum Number of "Wheelchair User Only" Spaces
1 to 25	1	1	-
26 to 50	2	1	-
51 to 75	3	1	-
76 to 100	4	1	-
101 to 150	5	-	1
151 to 200	6	-	1
201 to 300	7	-	1
301 to 400	8	-	1
401 to 500	9	-	2
501 to 1,000	2% of total	-	1 in every 8 accessible spaces or portion thereof
1,001 and over	20 plus 1 for each 100 over 1,000	-	1 in every 8 accessible spaces or portion thereof

(b) In addition, one in every eight accessible spaces, but not less than one, shall be van accessible. Where five or more parking spaces are designated accessible, any space that is designated as van accessible shall be reserved for wheelchair users. A van accessible parking space shall be at least nine feet wide and shall have an adjacent access aisle that is at least eight feet wide.

(c) Accessible parking spaces shall be at least nine feet wide and shall have an adjacent access aisle that is at least six feet wide.

(d) The access aisle shall be located on the passenger side of the parking space except that two adjacent accessible parking spaces may share a common access aisle.

(e) A sign shall be posted for each accessible parking space. The sign shall be clearly visible to a person parking in the space, shall be marked with the International Symbol of Access and shall indicate that the spaces are reserved for persons with disabled person parking permits. A van accessible parking space shall have an additional sign marked "Van Accessible" mounted below the sign. A van accessible parking space reserved for wheelchair users shall have a sign that includes the words "Wheelchair User Only."

(f) Accessible parking spaces and signs shall be designed in compliance with the standards set forth by the Oregon Transportation Commission in consultation with the Oregon Disabilities Commission.

(3) No ramp or obstacle may extend into the parking space or the aisle, and curb cuts and ramps may not be situated in such a way that they could be blocked by a legally parked vehicle.

(4) Parking spaces required by this section shall be maintained so as to meet the requirements of this section at all times and to meet the standards established by the state building code.

(5) The director is authorized to inspect parking spaces and facilities and buildings subject to the provisions of this section, and to do whatever is necessary to enforce the requirements, including the maintenance requirements, of this section. Municipalities and counties may administer and enforce the requirements of this section in the manner provided under ORS 455.148 or 455.150 for administration and enforcement of specialty codes. All plans for parking spaces subject to the provisions of this section must be approved by the director prior to the creation of the spaces.

(6) Requirements adopted under this section do not apply to long-term parking facilities at the Portland International Airport.

(7) Any reported violation of this section shall be investigated by the administrative authority. The administrative authority shall make a final decision and order correction, if necessary, within 30 days of notification. Any aggrieved person may appeal within 30 days of the decision by the administrative authority to the appropriate municipal appeals board or, at the option of the local jurisdiction, directly to the Building Codes Structures Board established under ORS 455.132. The appeal shall be acted upon within 60 days of filing. The decision of the municipal appeals board may be appealed to the board. The board shall act on the appeal within 60 days of filing. All appeals to the board shall be filed in accordance with ORS 455.690. [1979 c.809 §2; 1981 c.275 §1; 1983 c.338 §930; 1987 c.187 §1;

1989 c.243 §15; 1991 c.741 §6; 1993 c.503 §8; 1993 c.744 §77; 2001 c.573 §5; 2007 c.468 §1]

Chapter 468A

MOTOR VEHICLE POLLUTION CONTROL

468A.350 Definitions for ORS 468A.350 t468A.350 Definitions for ORS 468A.350 to 468A.400. As used in ORS 468A.350 to 468A.400:

(1) "Certified system" means a motor vehicle pollution control system for which a certificate of approval has been issued under ORS 468A.365 (3).

(2) "Factory-installed system" means a motor vehicle pollution control system installed by the manufacturer which meets criteria for emission of pollutants in effect under federal laws and regulations applicable on September 9, 1971, or which meets criteria adopted pursuant to ORS 468A.365 (1), whichever criteria are stricter.

(3) "Motor vehicle" includes any self-propelled vehicle used for transporting persons or commodities on public roads and highways but does not include a vehicle of special interest as that term is defined in ORS 801.605, if the vehicle is maintained as a collector's item and used for exhibitions, parades, club activities and similar uses but not used primarily for the transportation of persons or property, or a racing activity vehicle as defined in ORS 801.404.

(4) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification which causes a reduction of pollutants emitted from the vehicle. [Formerly 468.360; 2007 c.693 §8]

468A.355 Legislative findings. For purposes of ORS 468A.350 to 468A.400, the Legislative Assembly finds:

(1) That the emission of pollutants from motor vehicles is a significant cause of air pollution in many portions of this state.

(2) That the control and elimination of such pollutants are of prime importance for the protection and preservation of the public health, safety and well-being and for the prevention of irritation to the senses, interference with visibility, and damage to vegetation and property.

(3) That the state has a responsibility to establish procedures for compliance with standards which control or eliminate such pollutants.

(4) That the Oregon goal for pure air quality is the achievement of an atmosphere with no detectable adverse effect from motor vehicle air pollution on health, safety, welfare and the quality of life and property. [Formerly 449.951 and then 468.365]

468A.360 Motor vehicle emission and noise standards; copy to Department of Transportation. (1) After public hearing and in accordance with the applicable provisions of ORS chapter 183, the Environmental Quality Commission may adopt motor vehicle emission standards. For the purposes of this section, the commission may include, as a part of such standards, any standards for the control of noise emissions adopted pursuant to ORS 467.030.

(2) The commission shall furnish a copy of standards adopted pursuant to this section to the Department of Transportation and shall publish notice of the standards in a manner reasonably calculated to notify affected members of the public. [Formerly 468.370]

468A.363 Purpose of ORS 468A.363, 468A.365, 468A.400 and 815.300. The Legislative Assembly declares the purpose of ORS 468A.363, 468A.365, 468A.400 and 815.300 is to:

(1) Insure that the health of citizens in the Portland area is not threatened by recurring air pollution conditions.

(2) Provide necessary authority to the Environmental Quality Commission to implement one of the critical elements of the air quality maintenance strategy for the Portland area related to improvements in the motor vehicle inspection program.

(3) Insure that the Department of Environmental Quality is able to submit an approvable air quality maintenance plan for the Portland area through the year 2006 to the Environmental Protection Agency as soon as possible so that area can again be designated as an attainment area and impediments to industrial growth imposed in the Clean Air Act can be removed.

(4) Direct the Environmental Quality Commission to use existing authority to incorporate the following programs for emission reduction credits into the air quality maintenance plan for the Portland area:

(a) California or United States Environmental Protection Agency emission standards for new lawn and garden equipment sold in the Portland area.

(b) Transportation-efficient land use requirements of the transportation planning rule adopted by the Land Conservation and Development Commission.

(c) Improvements in the vehicle inspection program as authorized in ORS 468A.350 to 468A.400, including emission reduction from on-road vehicles resulting from enhanced testing, elimination of exemptions for 1974 and later model year vehicles, and expansion of inspection program boundaries.

(d) An employer trip reduction program that provides an emission reduction from on-road vehicles.

(e) A parking ratio program that limits the construction of new parking spaces for employment, retail and commercial locations.

(f) Emission reductions resulting from any new federal motor vehicle fuel tax.

(g) State and federal alternative fuel vehicles fleet programs that result in emission reductions.

(h) Installation of maximum achievable control technology by major sources of hazardous air pollutants as required by the federal Clean Air Act, as amended, resulting in emission reductions.

(i) As a safety margin, or as a substitute in whole or in part for other elements of the plan, emission reductions resulting from any new state gasoline tax or for any new vehicle registration fee that allows use of revenue for air quality improvement purposes. [1993 c.791 §2]

Note: 468A.363 was added to and made a part of 468A.350 to 468A.400 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

468A.365 Certification of motor vehicle pollution control systems and inspection of motor vehicles; rules. The Environmental Quality Commission shall:

(1) Determine and adopt by rule criteria for certification of motor vehicle pollution control systems. In determining the criteria the commission shall consider the following:

(a) The experience of any other state or the federal government;

(b) The cost of the system and of its installation;

(c) The durability of the system;

(d) The ease of determining whether the system, when installed on a motor vehicle, is functioning properly; and

(e) Any other factors which, in the opinion of the commission, render such a system suitable for the control of motor vehicle air pollution or for the protection of the health, safety and welfare of the public.

(2) Prescribe by rule the manner in which a motor vehicle pollution control system shall be tested for certification. The rules may prescribe a more rigorous inspection procedure in the areas designated under ORS 815.300 (2)(a), including any expansion of such boundary under ORS 815.300 (2)(b), in order to reduce air pollution emissions in those areas of the state. No such rule shall require testing for certification more often than once during the period for which registration or renewal of registration for a motor vehicle is issued. No rule shall require testing for certification of a motor vehicle that is exempted from the requirement for certification under ORS 815.300.

(3) Issue certificates of approval for classes of motor vehicle pollution control systems which, after being tested by the commission or by a method acceptable to the commission, the commission finds meet the criteria adopted under subsection (1) of this section.

(4) Designate by rule classifications of motor vehicles for which certified systems are available.

(5) Revoke, suspend or restrict a certificate of approval previously issued upon a determination that the system no longer meets the criteria adopted under subsection

(1) of this section pursuant to procedures for a contested case under ORS chapter 183.

(6) Designate suitable methods and standards for testing systems and inspecting motor vehicles to determine and insure compliance with the standards and criteria established by the commission.

(7) Except as provided in ORS 468A.370, contract for the use of or the performance of tests or other services within or without the state. [Formerly 468.375; 1993 c.791 §3]

468A.370 Cost-effective inspection program; contracts for inspections. The Environmental Quality Commission shall determine the most cost-effective method of conducting a motor vehicle pollution control system inspection program as required by ORS 468A.365. Upon finding that savings to the public and increased efficiency would result and the quality of the program would be adequately maintained, the commission may contract with a unit of local government or with a private individual, partnership or corporation authorized to do business in the State of Oregon, for the performance of tests or other services associated with conducting a motor vehicle pollution control system inspection program. [Formerly 468.377]

468A.375 Notice to state agencies concerning certifications. The Department of Environmental Quality shall notify the Department of Transportation and the Oregon State Police whenever certificates of approval for motor vehicle pollution control systems are approved, revoked, suspended or restricted by the Environmental Quality Commission. [Formerly 449.963 and then 468.380]

468A.380 Licensing of personnel and equipment; certification of motor vehicles; rules. (1) The Environmental Quality Commission by rule may:

(a) Establish criteria and examinations for the qualification of persons eligible to inspect motor vehicles and motor vehicle pollution control systems and execute the certificates described under ORS 815.310, and for the procedures to be followed in such inspections.

(b) Establish criteria and examinations for the qualification of equipment, apparatus and methods used by persons to inspect motor vehicles and motor vehicle pollution control systems.

(c) Establish criteria and examinations for the testing of motor vehicles.

(2) Subject to rules of the commission, the Department of Environmental Quality shall:

(a) Issue licenses to any person, type of equipment, apparatus or method qualified pursuant to subsection (1) of this section.

(b) Revoke, suspend or modify licenses issued pursuant to paragraph (a) of this subsection in accordance with the provisions of ORS chapter 183 relating to contested cases.

(c) Issue certificates of compliance for motor vehicles which, after being tested in accordance with the rules of the commission, meet the criteria established under subsection (1) of this section and the standards adopted pursuant to ORS 468A.350 to 468A.385 and 468A.400. [Formerly 468.390]

468A.385 Determination of compliance of motor vehicles. (1) The Environmental Quality Commission shall establish and maintain procedures and programs for determining whether motor vehicles meet the minimum requirements necessary to secure a certificate under ORS 815.310.

(2) Such procedures and programs include, but are not limited to, the installation of a certified system and the adjustment, tune-up, or other mechanical work performed on the motor vehicle in accordance with the requirements of the commission. [Formerly 468.395]

468A.387 Operating schedules for testing stations. (1) The Department of Environmental Quality shall establish flexible weekday operating schedules for testing stations that conduct motor vehicle pollution control system inspections described under ORS 468A.365 that extend the hours of operation beyond 5 p.m. for some testing stations for some days of the week.

(2) After determining the hours of operation for testing stations under subsection (1) of this section, the department shall advertise the hours of operation in as many ways as practicable, including but not limited to:

(a) Enclosing information about the hours of operation in all mailings and notices related to motor vehicle emission testing and motor vehicle registration renewal notices;

(b) Posting the hours of operation at Department of Transportation field offices;

(c) Broadcasting public service announcements; and

(d) Using appropriate Internet and other electronic media services that may be available. [1999 c.475 §2; 2009 c.551 §1]

468A.390 Designation of areas of the state subject to motor vehicle emission inspection program; rules. (1) If the need for a motor vehicle pollution control system inspection program is identified for an area in the State of Oregon Clean Air Act Implementation Plan, then the Environmental Quality Commission, by rule, shall designate boundaries, in addition to the areas specified in ORS 815.300 (2)(a) and (b), within which motor vehicles are subject to the requirement under ORS 815.300 to have a certificate of compliance issued under ORS 468A.380 to be registered or have the registration of the vehicle renewed.

(2) Whenever the Environmental Quality Commission designates boundaries under this section within which vehicles are subject to the requirements of ORS 815.300, the commission shall notify the Department of Transportation and shall provide the Department of Transportation with information necessary to perform the Department of Transportation's duties under ORS 815.300. [Formerly 468.397]

468A.395 Bond or letter of credit; remedy against person licensed under ORS 468A.380; cancellation of license. (1) Any person licensed to issue certificates of compliance pursuant to ORS 468A.380 shall file with the Department of Environmental Quality a surety bond or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The bond or letter of credit shall be executed to the State of Oregon in the sum of $1,000. It shall be approved as to form by the Attorney General, and shall be conditioned that inspections and certifications will be made only by persons who meet the qualifications fixed by the Environmental Quality Commission and will be made without fraud or fraudulent representations and without violating any of the provisions of ORS 468A.350 to 468A.400, 815.295, 815.300, 815.310, 815.320 and 815.325.

(2) In addition to any other remedy that a person may have, if any person suffers any loss or damage by reason of the fraud, fraudulent representations or violation of any of the provisions of ORS 468A.350 to 468A.400, 815.295, 815.300, 815.310, 815.320 and 815.325 by a person licensed pursuant to ORS 468A.380, the injured person has the right of action against the business employing such licensed person and a right of action in the person's own name against the surety upon the bond or the letter of credit issuer.

(3) The license issued pursuant to ORS 468A.380 of any person whose bond is canceled by legal notice shall be canceled immediately by the department. If the license is not renewed or is voluntarily or involuntarily canceled, the sureties of the bond or the letter of credit issuers shall be relieved from liability accruing subsequent to such cancellation by the department. [Formerly 468.400; 1997 c.631 §480]

468A.400 Fees; collection; use. (1) The Department of Environmental Quality shall:

(a) Establish and collect fees for application, examination and licensing of persons, equipment, apparatus or methods in accordance with ORS 468A.380 and within the following limits:

(A) The fee for licensing shall not exceed $5.

(B) The fee for renewal of licenses shall not exceed $1.

(b) Establish fees for the issuance of certificates of compliance. The department may classify motor vehicles and establish a different fee for each such class. The fee for the issuance of certificates shall be established by the Environmental Quality Commission in an amount based upon the costs of administering this program. Before establishing the fees, the commission shall determine the most cost effective program consistent with Clean Air Act requirements for each area of the state pursuant to ORS 468A.370.

(2) The department shall collect the fees established pursuant to subsection (1)(b) of this section at the time of the issuance of certificates of compliance as required by ORS 468A.380 (2)(c).

(3) On or before the 15th day of each month, the commission shall pay into the State Treasury all moneys received as fees pursuant to subsections (1) and (2) of this section during the preceding calendar month. The State Treasurer shall credit such money to the Department of Environmental Quality Motor Vehicle Pollution Account, which is hereby created. The moneys in the Department of Environmental Quality Motor Vehicle Pollution Account are continuously appropriated to the department to be used by the department solely or in conjunction with other state agencies and local units of government for:

(a) Any expenses incurred by the department and, if approved by the Governor, any expenses incurred by the Department of Transportation in the certification, examination, inspection or licensing of persons, equipment, apparatus or methods in accordance with the provisions of ORS 468A.380 and 815.310.

(b) Such other expenses as are necessary to study traffic patterns and to inspect, regulate and control the emission of pollutants from motor vehicles in this state.

(4) The Department of Environmental Quality may enter into an agreement with the Department of Transportation to collect the licensing and renewal fees described in subsection (1)(a) of this section subject to the fees being paid and credited as provided in subsection (3) of this section. [Formerly 468.405; 1993 c.18 §122; 1993 c.791 §4]

468A.405 Authority to limit motor vehicle operation and traffic; rules. The Environmental Quality Commission and regional air pollution control authorities organized pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535,

454.605 to 454.755 and ORS chapters 468, 468A and 468B by rule may regulate, limit, control or prohibit motor vehicle operation and traffic as necessary for the control of air pollution which presents an imminent and substantial endangerment to the health of persons. [Formerly 449.747 and then 468.410]

468A.410 Administration and enforcement of rules adopted under ORS 468A.405. Cities, counties, municipal corporations and other agencies, including the Department of State Police and the Department of Transportation, shall cooperate with the Environmental Quality Commission and regional air pollution control authorities in the administration and enforcement of the terms of any rule adopted pursuant to ORS 468A.405. [Formerly 449.751 and then 468.415]

468A.415 Legislative findings. The Legislative Assembly finds that extending additional statewide controls and fees on industrial and motor vehicle sources of air pollution may not be sufficient to attain and maintain desired air quality standards in the Portland-Vancouver air quality maintenance area. Additional approaches are needed to address growth in vehicle miles of travel that satisfy mobility needs and allow for economic growth while meeting the air quality goals for the region. [1991 c.752 §13]

468A.420 Oxygenated motor vehicle fuels; when required by rule. (1) The Environmental Quality Commission shall adopt rules consistent with section 211 of the Clean Air Act to require oxygenated motor vehicle fuels to be used in any carbon monoxide non-attainment area in the state.

(2) The rules adopted under subsection

(1) of this section shall require:

(a) Oxygenated fuels to be used during any portion of the year during which the non-attainment area is prone to high ambient concentrations of carbon monoxide.

(b) The use of oxygenated fuels in carbon monoxide non-attainment areas on or before November 1, 1992.

(3) An oxygenated fuel shall contain 2.7 percent or more oxygen by weight. Methods to achieve this requirement may include but need not be limited to the use of ethanol blends. [1991 c.752 §13b]

468A.455 Police enforcement. The Oregon State Police, the county sheriff and municipal police are authorized to use such reasonable force as is required in the enforcement of any rule adopted pursuant to ORS 468A.405 and may take such reasonable steps as are required to assure compliance therewith, including but not limited to:

(1) Locating appropriate signs and signals for detouring, prohibiting and stopping motor vehicle traffic; and

(2) Issuing warnings or citations.[Formerly 449.753 and then 468.420]

Chapter 471

PROHIBITIONS RELATING TO LIQUOR

471.430 Purchase or possession of alcoholic beverages by person under 21; entry of licensed premises by person under 21; penalty; immunity; suspension of driving privileges; assessment and treatment. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.

(2) For the purposes of this section, personal possession of alcoholic beverages includes the acceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such beverages. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

(4)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (3) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle as defined in ORS 801.360.

(5) In addition to and not in lieu of any other penalty established by law:

(a) The court may order a person who violates subsection (1) of this section through misrepresentation of age to perform community service; and

(b) The court shall order, when a person violates subsection (1) of this section, that the person's driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this paragraph may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(6) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty established by law, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(7) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment as provided in ORS 471.432. The court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this section.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(10)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section. [Amended by 1963 c.243 §2; 1965 c.166 §1; 1971 c.159 §6; 1975 c.493 §1; 1979 c.313 §8; 1991 c.860 §2; 1999 c.646 §1; 1999 c.1051 §186; 2001 c.791 §4; 2007 c.41 §1; 2007 c.298 §1; 2009 c.228 §1; 2011 c.355 §21; 2014 c.11 §1; 2017 c.20 §1]

Chapter 475B

RECREATIONAL USE OF CANNABIS

(Prohibited Conduct)

475B.316 Prohibition against person under 21 years of age possessing, attempting to purchase or purchasing marijuana item; penalty. (1)(a) A person under 21 years of age may not possess, attempt to purchase or purchase a marijuana item.

(b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and possessing a marijuana item includes consuming a marijuana item, provided that the consumption of the marijuana item occurred no more than 24 hours before the determination that the person consumed the marijuana item.

(2) Except as authorized by the Oregon Liquor Control Commission by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(3)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (2) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of possessing a marijuana item while the person is operating a motor vehicle as defined in ORS 801.360.

(4) In addition to and not in lieu of any other penalty established by law:

(a) The court may require a person who violates subsection (1) of this section through misrepresentation of age to perform community service; and

(b) The court shall order that, when a person violates subsection (1) of this section, the person's driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this paragraph may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty established by law, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(6) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment. The court shall order a person to undergo assessment and treatment if the person has previously been found to have violated this section.

(7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section. [Formerly 475B.260]

Chapter 476

THROWING AWAY LIGHTED OBJECTS

476.715 Throwing away of lighted matches, cigarettes and other materials prohibited; posting copy of section in public conveyances. No one shall, at any time, throw away any lighted tobacco, cigars, cigarettes, matches or other lighted material, on any forestland, private road, public highway or railroad right of way within this state. Everyone operating

a public conveyance shall post a copy of this section in a conspicuous place within the smoking compartments of such conveyance. [Formerly 477.164]

476.990 Penalties. (1) Violation of ORS 476.150 (2) is a Class A misdemeanor.

(2) Violation of ORS 476.380 (1) is a Class A misdemeanor.

(3) Violation of ORS 476.410 to 476.440 is a Class C misdemeanor.

(4) Violation of any provision of ORS 476.510 to 476.610 is a Class A misdemeanor.

(5) Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of any rule or regulation of the State Parks and Recreation Department promulgated thereunder is a Class B misdemeanor. [Subsection (5) of 1959 Replacement Part formerly 477.990(5); 1961 c.52 §1; subsection (2) enacted as 1967 c.420 §4; subsection (6) enacted as 1967 c.417 §13 and 1967 c.417 §15; 1971 c.563 §10; 1971 c.743 §383; 1999 c.1051 §312; 2001 c.104 §216; 2011 c.597 §219]

Chapter 480

EXPLOSIVES AND FLAMMABLE MATERIALS

Explosives Generally

480.050 Prohibition against intrastate transportation of explosives in passenger vehicle operated by common carrier; exception. No person shall transport, carry or convey, or have transported, carried or conveyed, any dynamite, gunpowder or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier which car or vehicle is carrying passengers for hire. However, it shall be lawful to transport on any such car or vehicle small arms, ammunition in any quantity, such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation, and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of one-half pound each and not exceeding 20 samples at one time in a single car or vehicle. Such samples shall not be carried in that part of a car or vehicle which is intended for the transportation of passengers for hire. Nothing in this section shall be construed to prevent the transportation of military or naval forces, with their accompanying munitions of war, on passenger equipment, cars or vehicles.

480.060 Transportation of certain explosives prohibited. No person shall transport, carry or convey, or have transported, carried or conveyed, liquid nitroglycerine, fulminate in bulk in dry condition, or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier in the transportation of passengers.

Regulation of Gasoline Dispensing

480.310 Definitions for ORS 480.315 to 480.385. As used in ORS 480.315 to 480.385:

(1) "Class 1 flammable liquids" means liquids with a flash point below 25 degrees Fahrenheit, closed cup tester.

(2) "Non-retail facility" means an unattended facility where Class 1 flammable liquids are dispensed through a card or key activated fuel dispensing device to non-retail customers. [Amended by 1991 c.863 §48]

480.315 Policy. The Legislative Assembly declares that, except as provided in ORS 480.345 to 480.385, it is in the public interest to maintain a prohibition on the self-service dispensing of Class 1 flammable liquids at retail. The Legislative Assembly finds and declares that:

(1) The dispensing of Class 1 flammable liquids by dispensers properly trained in appropriate safety procedures reduces fire hazards directly associated with the dispensing of Class 1 flammable liquids;

(2) Appropriate safety standards often are unenforceable at retail self-service stations in other states because cashiers are often unable to maintain a clear view of and give undivided attention to the dispensing of Class 1 flammable liquids by customers;

(3) Higher liability insurance rates charged to retail self-service stations reflect the dangers posed to customers when they leave their vehicles to dispense Class 1 flammable liquids, such as the increased risk of crime and the increased risk of personal injury resulting from slipping on slick surfaces;

(4) The dangers of crime and slick surfaces described in subsection (3) of this section are enhanced because Oregon's weather is uniquely adverse, causing wet pavement and reduced visibility;

(5) The dangers described in subsection

(3) of this section are heightened when the customer is a senior citizen or has a disability, especially if the customer uses a mobility aid, such as a wheelchair, walker, cane or crutches;

(6) Attempts by other states to require the providing of aid to senior citizens and persons with disabilities in the self-service dispensing of Class 1 flammable liquids at retail have failed, and therefore, senior citizens and persons with disabilities must pay the higher costs of full service;

(7) Exposure to toxic fumes represents a health hazard to customers dispensing Class 1 flammable liquids;

(8) The hazard described in subsection (7) of this section is heightened when the customer is pregnant;

(9) The exposure to Class 1 flammable liquids through dispensing should, in general, be limited to as few individuals as possible, such as gasoline station owners and their employees or other trained and certified dispensers;

(10) The typical practice of charging significantly higher prices for full-service fuel dispensing in states where self-service is permitted at retail:

(a) Discriminates against customers with lower incomes, who are under greater economic pressure to subject themselves to the inconvenience and hazards of self-service;

(b) Discriminates against customers who are elderly or have disabilities who are unable to serve themselves and so must pay the significantly higher prices; and

(c) Increases self-service dispensing and thereby decreases maintenance checks by attendants, which results in neglect of maintenance, endangering both the customer and other motorists and resulting in unnecessary and costly repairs;

(11) The increased use of self-service at retail in other states has contributed to diminishing the availability of automotive repair facilities at gasoline stations;

(12) Self-service dispensing at retail in other states does not provide a sustained reduction in fuel prices charged to customers;

(13) A general prohibition of self-service dispensing of Class 1 flammable liquids by the general public promotes public welfare by providing increased safety and convenience without causing economic harm to the public in general;

(14) Self-service dispensing at retail contributes to unemployment, particularly among young people;

(15) Self-service dispensing at retail presents a health hazard and unreasonable discomfort to persons with disabilities, elderly persons, small children and those susceptible to respiratory diseases;

(16) The federal Americans with Disabilities Act, Public Law 101-336, requires that equal access be provided to persons with disabilities at retail gasoline stations; and

(17) Small children left unattended when customers leave to make payment at retail self-service stations creates a dangerous situation. [1991 c.863 §49a; 1999 c.59 §160; 2007 c.70 §276]

480.320 Use of coin-operated pumps and dispensing of gasoline by self-service declared hazardous. The installation and use of coin-operated dispensing devices for Class 1 flammable liquids and the dispensing of Class 1 flammable liquids by self-service, are declared hazardous. [Amended by 1959 c.73 §1]

480.330 Operation of gasoline dispensing device by public prohibited; aviation fuel exception. An owner, operator or employee of a filling station, service station, garage or other dispensary where Class 1 flammable liquids, except aviation fuels, are dispensed at retail may not permit any person other than the owner, operator or employee to use or manipulate any pump, hose, pipe or other device for dispensing the liquids into the fuel tank of a motor vehicle or other retail container. [Amended by 2001 c.285 §1]

480.340 Coin-operated or self-service gasoline pumps prohibited; automatic shut-off devices regulated; aviation fuel exception. An owner, operator or employee of a filling station, service station, garage or other dispensary where Class 1 flammable liquids, except aviation fuels, are dispensed at retail may not install or use or permit the use of:

(1) A coin-operated or self-service dispensing device for the liquids.

(2) A device that permits the dispensing of the liquids when the hand of the operator of the discharge nozzle is removed from the control lever, except one equipped with an automatic nozzle of a type that has been approved by the State Fire Marshal and that has a latch-open device as an integral part of the assembly, capable of shutting off the flow of the liquids reliably when the tank is filled or when the nozzle falls or slips from the filling neck of the tank. A person may not use an automatic nozzle to dispense the liquids unless the owner, operator or employee is in the immediate vicinity of the tank being filled. [Amended by 1959 c.73 §2; 2001 c.285 §2]

480.341 Customer operation of gasoline dispensing device in low-population county of eastern Oregon. (1) As used in this section:

(a) "Eastern Oregon" means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of this state and the western boundary of Hood River County, and from there proceeding southerly along the western boundaries of Hood River, Wasco, Jefferson, Deschutes and Klamath Counties to the southern boundary of this state.

(b) "Low-population county" means a county that, based on a certificate of population prepared under ORS 190.510 to 190.610, has a population of not more than 40,000.

(2) Notwithstanding ORS 480.320, 480.330 and 480.340, and subject to subsection (3) of this section, if a filling station, service station, garage or other dispensary where Class 1 flammable

liquids are dispensed at retail is located in a low-population county of eastern Oregon, the owner or operator may:

(a) Permit a person other than an owner, operator or employee to use or manipulate a device for dispensing liquids into the fuel tank of a motor vehicle or other retail container;

(b) Permit the use of an installed coin-operated or self-service dispensing device for the liquids; and

(c) Allow the use of an automatic nozzle to dispense the liquids without an owner, operator or employee being in the immediate vicinity of the tank or container being filled.

(3) If the site of a dispensary described in subsection (2) of this section includes retail space providing goods or services, other than goods or services for maintaining, repairing or cleaning a motor vehicle, the dispensary shall make an owner, operator or employee available for dispensing Class 1 flammable liquids after 6 a.m. and before 6 p.m.

(4) Notwithstanding ORS 480.320, 480.330,

480.340 and 480.345, if a non-retail facility is located in a low-population county of eastern Oregon, the owner or operator may:

(a) Permit the dispensing of Class 1 flammable liquids at retail;

(b) Permit a person other than an owner, operator, employee or non-retail customer to use or manipulate a device for dispensing liquids into the fuel tank of a motor vehicle or other retail container;

(c) Permit the use of an installed coin-operated or self-service dispensing device for the liquids; and

(d) Allow the use of an automatic nozzle to dispense the liquids without an owner, operator or employee being in the immediate vicinity of the tank or container being filled.

(5)(a) Sales under subsection (2) of this section do not make a filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail subject to any provisions of ORS 480.315 to 480.385 regulating non-retail facilities.

(b) Sales under subsection (4) of this section do not require that a non-retail facility possess a license to dispense Class 1 flammable liquids at retail.

(c) Sales under subsection (4) of this section do not require that a non-retail facility possess a conditional use license issued under ORS 480.355. However, sales under subsection (4) of this section do not prevent a non-retail facility that qualifies under ORS 480.355 from also possessing a conditional use license.

(d) Purchasing Class 1 flammable liquids under subsection (4) of this section does not make a retail customer subject to any gallonage requirement set forth in ORS 480.345.

(e) Purchasing Class 1 flammable liquids under subsection (4) of this section does not make a retail customer subject to rules of the State Fire Marshal establishing safety training requirements.

(6) This section does not prohibit, limit or condition any dispensing of Class 1 flammable liquids or diesel fuel otherwise authorized under ORS 480.315 to 480.385.

(7) No later than 90 days prior to commencing sales under subsection (4) of this section, a non-retail facility shall notify the State Fire Marshal that the facility plans to dispense Class 1 flammable liquids at retail under this section.

(8) If a county where sales are authorized under this section ceases to be a low-population county, dispensaries and non-retail facilities located within the county may operate as described in this section notwithstanding the change in county population. [2015 c.525 §2; 2017 c.207 §1]

480.345 Conditions for operation of dispensing device by certain non-retail customers. Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dispensing facility may permit non-retail customers other than the owner, operator or employee to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following conditions:

(1) The owner or operator shall hold a current non-retail facility license issued by the State Fire Marshal under ORS 480.350;

(2) Except as provided in ORS 480.360, a non-retail customer shall purchase at least 900 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 900 gallons annually, file documentation that:

(a) The fuel qualifies as a deductible farming expense on the customer's federal income tax return;

(b) The fuel was purchased by a governmental agency providing fire, ambulance or police services; or

(c) The fuel was purchased by:

(A) A people's utility district organized under ORS chapter 261;

(B) A domestic water supply district organized under ORS chapter 264;

(C) A mass transit district organized under ORS 267.010 to 267.394;

(D) A metropolitan service district organized under ORS chapter 268;

(E) A special road district organized under ORS 371.305 to 371.360;

(F) A 9-1-1 communications district organized under ORS 403.300 to 403.380;

(G) A sanitary district organized under ORS 450.005 to 450.245;

(H) A sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989;

(I) A rural fire protection district organized under ORS chapter 478;

(J) A water improvement district organized under ORS chapter 552;

(K) A water control district organized under ORS chapter 553; or

(L) A port organized under ORS chapter 777.

(3) The non-retail customer shall provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(4) The non-retail customer, other than the owner or operator, dispensing Class 1 flammable liquids shall be employed by a business, government agency or nonprofit or charitable organization and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned or used by the business, government agency or nonprofit or charitable organization;

(5) The non-retail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids shall have satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(6) The owner or operator shall enter into a written agreement with non-retail customers permitted under this section to dispense fuel at the non-retail facility. Except as otherwise provided in ORS 480.355, the agreement shall at a minimum:

(a) Certify that the non-retail customer will purchase at least 900 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 900 gallons annually, file documentation that:

(A) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or

(B) The fuel was purchased by a governmental agency providing fire, ambulance or police services;

(b) Provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(c) Certify that the non-retail customer is employed by a business, government agency or nonprofit or charitable organization and that the non-retail customer shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned or used by the business, government agency or nonprofit or charitable organization;

(d) Certify that the non-retail customer has satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(e) Require the non-retail customer to submit a sworn statement, as defined in ORS 162.055, that the information supplied in the agreement is true and correct. [1991 c.863 §50; 1993 c.469 §7; 2001 c.328 §§1,2; 2010 c.107 §14; 2015 c.207 §1]

480.347 Use of gasoline dispensing device by emergency service volunteer; conditions. Notwithstanding ORS 480.330 and 480.340, during an emergency as defined in ORS 401.025, the owner, operator or employee of a dispensing facility may permit non-retail customers, other than the owner, operator or employee, to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a vehicle or other container if:

(1) The owner or operator holds a current non-retail facility license issued by the State Fire Marshal under ORS 480.350;

(2) The fuel is dispensed to an emergency service agency as defined in ORS 401.025 or to an entity authorized by an emergency service agency to provide services during an emergency;

(3) The non-retail customer, other than the owner or operator, dispensing Class 1 flammable liquids is a qualified emergency service volunteer as defined in ORS 401.358 or an owner or employee of the entity authorized by the emergency service agency to provide services during an emergency and dispenses Class 1 flammable liquids only into the fuel tank of a vehicle or other container owned and used by the emergency service agency or the entity authorized by that agency to provide services during an emergency; and

(4) The non-retail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids satisfies safety training requirements in compliance with rules of the State Fire Marshal. [1999 c.456 §2; 2009 c.718 §26]

480.349 Use of gasoline dispensing device by motorcycle operator. (1) As used in this section, "motorcycle" has the meaning given that term in ORS 801.365.

(2) Notwithstanding ORS 480.330 and 480.340:

(a) Upon the request of an operator of a motorcycle, the owner, operator or employee of a filling station, service station, garage or other

dispensary where Class 1 flammable liquids are dispensed at retail shall set the fuel dispensing device and hand the discharge nozzle to the operator of the motorcycle.

(b) An operator of a motorcycle who is handed a discharge nozzle under paragraph

(a) of this subsection:

(A) May dispense Class 1 flammable liquids into the operator's motorcycle.

(B) Shall, after dispensing the liquids, return the discharge nozzle to the owner, operator or employee.

(3) The owner, operator or employee who is handed the discharge nozzle shall return the nozzle to the pump or take any other actions necessary to ensure safe completion of the fueling operation. [2001 c.344 §2]

Note: 480.349 was added to and made a part of 480.315 to 480.385 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

Liquefied Petroleum Gas

480.410 Definition. As used in ORS 480.420 to 480.460, "LP gas" or "liquefied petroleum gas" means any liquid composed predominantly of any of the following hydrocarbons or mixtures of the same: Propane, propylene, butanes (normal butane or isobutane) and butylenes. [Amended by 1957 c.712 §1; 2009 c.790 §3]

480.420 Liquefied petroleum gas rules and regulations; conformity with standards of National Fire Protection Association. (1) The State Fire Marshal shall make, promulgate and enforce regulations establishing minimum general standards for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck or tank trailer and utilizing liquefied petroleum gases and specifying the degree of odorization of the gases, and shall establish standards and rules for the issuance, suspension and revocation of licenses and permits provided in ORS 480.410 to 480.460.

(2) The regulations required shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and of persons using or handling such materials, and shall be in substantial conformity with the generally accepted standards of safety relating to the same matter. Regulations in substantial conformity with the published standards of the National Fire Protection Association pamphlet No. 58 and pamphlet No. 59 for the design, installation and construction of containers and equipment thereto pertaining, for the storage and handling of liquefied petroleum gases, including utility gas plants, as recommended by the National Fire Protection Association, and the published standards of the National Fire Protection Association pamphlet No. 54 for liquefied petroleum gas piping and appliance installations in buildings, shall be deemed to be in substantial conformity with the generally accepted standards of safety relating to the same subject matter. [Amended by 1957 c.712 §2; 1961 c.477 §1; 1967 c.417 §26; 2009 c.790 §4]

480.430 Liquefied petroleum gas containers; certain uses prohibited. No person other than the owner of the container or receptacle and those authorized by the owner so to do, shall sell, fill, refill, deliver or permit to be delivered or used in any manner any liquefied petroleum gas container or receptacle for any gas or compound or for any other purpose. [Amended by 1965 c.602 §25]

480.432 Licenses required; exceptions.

(1) A person may not engage in or work at the business of installing, extending, altering or repairing any LP gas appliance or piping, vent or flue connection pertaining to or in connection with LP gas installations within the state, either as employer or individual, unless the person has received an LP gas installation license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(2) A person may not do any LP gas fitting or gas venting work, install, repair or remodel any piping or venting or do any installation, repair service, connection or disconnection of any LP gas appliance that is subject to inspection under ORS 480.410 to 480.460 unless the person has received an LP gas fitter license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(3) A person may not operate any LP gas delivery equipment installed on a motorized vehicle unless the person has received an LP gas truck equipment license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(4) Any person under the terms of this section who is required to have an LP gas fitter or LP gas truck equipment license is also required to have an LP gas installation license, unless the person is an employee of an employer who has an LP gas installation license as provided by this section.

(5) A person who holds a valid journeyman plumber license under ORS 693.060 or who is in an approved journeyman plumber apprenticeship established under ORS 660.002 to 660.210 is exempt from the licensing requirements of subsections (1) and (2) of this section, except that the apprentice or journeyman plumber may not install an LP gas tank or make any connection to an LP gas tank unless the apprentice or journeyman plumber is licensed as required under this section.

(6) A person who holds a license issued by the Department of Consumer and Business Services under ORS 480.630 of a class that authorizes the person to fabricate, install, alter or repair pressure piping and to install boilers and pressure vessels by attachment of piping connector is

exempt from the licensing requirements of subsections (1) and (2) of this section, except that the person may not install an LP gas tank or make any connection to an LP gas tank unless the person is licensed as required under this section.

(7) Subsections (1) to (4) of this section do not apply to LP gas installations in a manufactured dwelling performed during the construction of the manufactured dwelling, or the alteration or repair of an LP gas installation in a manufactured dwelling made pursuant to the manufacturer's warranty. The provisions of this section do not apply to LP gas work on recreational vehicles as defined in ORS 174.101. [1957 c.712 §4; 1967 c.417 §27; 1999 c.558 §4; 1999 c.852 §1; 2001 c.104 §221; 2003 c.652 §1; 2005 c.758 §34; 2019 c.422 §37]

Penalties

480.990 Penalties. (1) Violation of any provision of ORS 480.010 to 480.040 is a Class B violation.

(2) Violation of any provision of ORS 480.050, 480.060 or 480.290 is a Class C misdemeanor.

(3) Violation of ORS 480.070 is a Class A misdemeanor.

(4) Violation of ORS 480.085 is a Class B violation.

(5) Violation of any provision of ORS 480.111 to 480.165 is a Class B misdemeanor. Violations thereof may be prosecuted in state or municipal courts when violations occur within the municipality served thereby. Justice courts shall have concurrent jurisdiction with circuit courts in all proceedings arising within ORS 480.111 to 480.165.

(6) Subject to ORS 153.022, violation of any provision of ORS 480.210, 480.215, 480.235 and 480.265 or of any rule or regulation adopted under ORS 480.280 (1) is a Class B misdemeanor.

(7) Violation of any provision of ORS 480.420 to 480.460 is a Class B violation.

(8) Subject to ORS 153.022, violation of any provision of ORS 480.510 to 480.670, or any rule promulgated pursuant thereto, is a Class A misdemeanor. Whenever the Board of Boiler Rules has reason to believe that any person is liable to punishment under this subsection, it may certify the facts to the Attorney General, who may cause an appropriate proceeding to be brought. [Subsection (4) of 1963 Replacement Part enacted as 1961 c.722 §3; subsection (10) enacted as 1961 c.485 §24; subsection (4) enacted as 1963 c.384 §3; 1965 c.602 §24; subsection (3) enacted as 1967 c.417 §22; subsection (7) enacted as 1971 c.518 §25; 1983 c.676 §22; 1985 c.165 §3; 1987 c.158 §111; 1991 c.863 §59; 1999 c.1051 §193]

Chapter 646A

ENFORCEMENT OF EXPRESS WARRANTIES ON NEW MOTOR VEHICLES

646A.400 Definitions for ORS 646A.400 to 646A.418. As used in ORS 646A.400 to 646A.418:

(1) "Collateral charge" means a charge, fee or cost to the consumer related to the sale or lease of a motor vehicle, such as:

(a) A sales, property or use tax;

(b) A license, registration or title fee;

(c) A finance charge;

(d) A prepayment penalty;

(e) A charge for undercoating, rustproofing or factory or dealer installed options; and

(f) The cost of an aftermarket item purchased within 20 days after delivery of the motor vehicle.

(2) "Consumer" means:

(a) The purchaser or lessee, other than for purposes of resale, of a new motor vehicle normally used for personal, family or household purposes;

(b) Any person to whom a new motor vehicle used for personal, family or household purposes is transferred for the same purposes during the duration of an express warranty applicable to such motor vehicle; and

(c) Any other person entitled by the terms of such warranty to enforce the obligations of the warranty.

(3)(a) "Motor home" means a motor vehicle that is a new or demonstrator vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab or van that becomes an integral part of the completed vehicle, and that is designed to provide temporary living quarters for recreational, camping or travel use.

(b) "Motor home" does not include a trailer, camper, van or vehicle manufactured by an entity that primarily manufactures motor vehicles other than motor homes as defined in this subsection.

(c) "Motor home" does not include "living facility components," which means those items designed, used or maintained primarily for the living quarters portion of the motor home, including but not limited to the flooring, plumbing fixtures, appliances, water heater, fabrics, door and furniture hardware, lighting fixtures, generators, roof heating and air conditioning units, cabinets, countertops, furniture and audio-visual equipment.

(4) "Motor vehicle" means a passenger motor vehicle as defined in ORS 801.360 that is purchased in this state or is purchased outside this

state but registered in this state. [Formerly 646.315; 2009 c.448 §1]

646A.402 Availability of remedy. The remedy under the provisions of ORS 646A.400 to 646A.418 is available to a consumer if:

(1) A new motor vehicle does not conform to applicable manufacturer's express warranties;

(2) The consumer reports each nonconformity to the manufacturer, the manufacturer's agent or the manufacturer's authorized dealer, for the purpose of repair or correction, during the two-year period following the date of original delivery of the motor vehicle to the consumer or during the period ending on the date on which the mileage on the motor vehicle reaches 24,000 miles, whichever period ends first; and

(3) The manufacturer has received direct written notification from or on behalf of the consumer and has had an opportunity to correct the alleged defect. "Notification" under this subsection includes, but is not limited to, a request by the consumer for an informal dispute settlement procedure under ORS 646A.408. [Formerly 646.325; 2009 c.448 §2]

646A.404 Consumer's remedies; manufacturer's affirmative defenses. (1) If the manufacturer or agents or authorized dealers of the manufacturer are unable to conform the motor vehicle to an applicable manufacturer's express warranty by repairing or correcting a defect or condition that substantially impairs the use, market value or safety of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall:

(a) Replace the motor vehicle with a new motor vehicle; or

(b) Accept return of the vehicle from the consumer and refund to the consumer the full purchase or lease price and collateral charges paid, less a reasonable allowance for the consumer's use of the motor vehicle. In lieu of refunding, as part of the collateral charges paid, the cost of an aftermarket item purchased within 20 days after delivery of the motor vehicle, the manufacturer may remove the aftermarket item from the motor vehicle, if the aftermarket item can be removed from the motor vehicle without damage, and return the aftermarket item to the consumer.

(2) Refunds must be made to the consumer and lienholder, if any, as the interests of the consumer and lienholder may appear.

(3)(a) As used in this section, "reasonable allowance for the consumer's use of the motor vehicle" means:

(A) For a motor vehicle that is not a motorcycle or a motor home, an amount of money equivalent to the motor vehicle mileage as described in paragraph (b) of this subsection, multiplied by the combined amount of the cash price or lease price of the motor vehicle and the amount of any collateral charges paid by the consumer, and divided by 120,000.

(B) For a motorcycle, an amount of money equivalent to the motor vehicle mileage as described in paragraph (b) of this subsection, multiplied by the combined amount of the cash price or lease price of the motorcycle and the amount of any collateral charges paid by the consumer, and divided by 25,000.

(C) For a motor home, an amount of money equivalent to the motor vehicle mileage as described in paragraph (b) of this subsection, multiplied by the combined amount of the cash price or lease price of the motor home and the amount of any collateral charges paid by the consumer, and divided by 90,000.

(b) The motor vehicle mileage for the purposes of the calculation described in paragraph (a) of this subsection is the motor vehicle's mileage at the time the manufacturer takes an action described in subsection

(1) of this section, less 10 miles for mileage that the motor vehicle traveled during any period in which the consumer did not have use of the motor vehicle because the manufacturer or an agent or authorized dealer of the manufacturer was repairing the motor vehicle.

(4) It is an affirmative defense to a claim under ORS 646A.400 to 646A.418 that:

(a) An alleged nonconformity does not substantially impair such use, market value or safety; or

(b) A nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of the motor vehicle. [Formerly 646.335; 2009 c.448 §3]

646A.405 Manufacturer action under ORS 646A.404; request to Department of Transportation; notice to buyer; unlawful practice; rules. (1) A manufacturer that takes an action with respect to a motor vehicle under ORS 646A.404 (1)(a) or (b) shall request the Department of Transportation to:

(a) Title the motor vehicle in the manufacturer's name; and

(b) Inscribe on the certificate of title for the motor vehicle and in the department's records concerning the motor vehicle the notation "Lemon Law Buyback."

(2) A person that acquires a motor vehicle in order to sell, lease or otherwise transfer the motor vehicle and that knows or should have known that the manufacturer took an action with respect to the motor vehicle under ORS 646A.404 (1)(a) or (b) or that the certificate of title for the motor vehicle is inscribed with the notation specified in subsection (1) of this section, before selling, leasing or otherwise transferring the motor vehicle shall:

(a) Provide the buyer, lessee or transferee with a notice that states:

_____

This vehicle was repurchased by its manufacturer in accordance with Oregon's consumer warranty law because of a defect in the vehicle. The title to this vehicle has been permanently inscribed with the notation "Lemon Law Buyback."

_____

(b) Obtain the signature of the buyer, lessee or transferee on the notice in a space provided for that purpose under a statement in which the buyer, lessee or transferee acknowledges receiving and understanding the notice.

(3) Failure to comply with the requirements of subsection (1) or (2) of this section is an unlawful practice under ORS 646.608 and a person that fails to comply with the requirements is subject to the causes of action and remedies provided in ORS 646.632 and 646.638.

(4) The Director of Transportation may adopt rules to prescribe the form and content of the notice required under this section and to require the disclosure of other information the director deems necessary to inform a buyer, lessee or transferee of the condition of a motor vehicle that is subject to the provisions of this section or information that is otherwise material to a sale, lease or transfer of the motor vehicle. [2009 c.448 §10]

646A.406 Presumption of reasonable attempt to conform; extension of time for repairs; notice to manufacturer. (1) It is presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable manufacturer's express warranties if, during the two-year period following the date of original delivery of the motor vehicle to a consumer or during the period ending on the date on which the mileage on the motor vehicle reaches 24,000 miles, whichever period ends first:

(a) The manufacturer or an agent or authorized dealer of the manufacturer has subjected the nonconformity to repair or correction three or more times and has had an opportunity to cure the defect alleged, but the nonconformity continues to exist;

(b) The motor vehicle is out of service by reason of repair or correction for a cumulative total of 30 or more calendar days or 60 or more calendar days if the vehicle is a motor home; or

(c) The manufacturer or an agent or authorized dealer of the manufacturer has subjected a nonconformity that is likely to cause death or serious bodily injury to repair or correction at least one time and has made a final attempt to repair or correct the non-conformity, but the nonconformity continues to exist.

(2) A repair or correction for purposes of subsection (1) of this section includes a repair that must take place after the expiration of the earlier of either period.

(3) The period ending on the date on which the mileage on the motor vehicle reaches 24,000 miles, the two-year period and the 30-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood or other natural disaster.

(4) The presumption described in subsection (1) of this section does not apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer and has had an opportunity to cure the defect alleged. [Formerly 646.345; 2009 c.448 §4]

646A.408 Use of informal dispute settlement procedure as condition for remedy; binding effect on manufacturer. If a manufacturer, for the purpose of settling disputes that arise under ORS 646A.400 to 646A.418, establishes or participates in an informal dispute settlement procedure that substantially complies with the provisions of 16 C.F.R. part 703, as in effect on June 23, 2009, and causes a consumer to be notified of the procedure, ORS 646A.404 does not apply to a consumer who has not first resorted to the procedure. A decision resulting from arbitration pursuant to the informal dispute settlement procedure is binding on the manufacturer but is not binding on the consumer. [Formerly 646.355; 2009 c.448 §5]

646A.410 Informal dispute settlement procedure; record-keeping; review by Department of Justice. A manufacturer which has established or participates in an informal dispute settlement procedure shall keep records of all cases submitted to the procedure under ORS 646A.408 and shall make the records available to the Department of Justice if the department requests them. The department may review all case records kept under this section to determine whether or not the arbitrators are complying with the provisions of ORS 646A.400 to 646A.418 in reaching their decisions. [Formerly 646.357]

646A.412 Action in court; damages if manufacturer does not act in good faith; attorney fees; expert witness fees; costs.

(1) If a consumer brings an action in court under ORS 646A.400 to 646A.418 against a manufacturer and the consumer is granted one of the remedies specified in ORS 646A.404 (1) by the court, the consumer shall also be awarded up to three times the amount of any damages, not to exceed $50,000 over and above the amount due the consumer under ORS 646A.404 (1), if the court finds that the manufacturer did not act in good faith.

(2) Except as provided in subsection (3) of this section, the court may award reasonable attorney fees, fees for expert witnesses and costs to a consumer who prevails in an appeal or action under

ORS 646A.400 to 646A.418. If a court finds that a consumer brought an action under ORS 646A.400 to 646A.418 in bad faith or solely for the purposes of harassment, the court may award a prevailing manufacturer reasonable attorney fees.

(3) The court may award reasonable attorney fees, fees for expert witnesses and costs to the prevailing party in an appeal or action under ORS 646A.400 to 646A.418 that involves a motor home. [Formerly 646.359; 2009 c.448 §6]

646A.414 Limitations on actions against dealers. (1) Except as provided in ORS 646A.405, nothing in ORS 646A.400 to 646A.418 creates a cause of action by a consumer against a vehicle dealer.

(2) A manufacturer may not join a dealer as a party in a proceeding brought under ORS 646A.400 to 646A.418, nor may the manufacturer try to collect from a dealer damages assessed against the manufacturer in a proceeding brought under ORS 646A.400 to 646A.418. [Formerly 646.361; 2009 c.448 §7]

646A.416 Limitation on commencement of action. An action brought under ORS 646A.400 to 646A.418 must be commenced within one year after whichever of the following periods ends earlier:

(1) The period ending on the date on which the mileage on the motor vehicle reaches 24,000 miles;

(2) The two-year period following the date of the original delivery of the motor vehicle to the consumer; or

(3) The period that ends after an extension of time provided under ORS 646A.406 (3). [Formerly 646.365; 2009 c.448 §8]

646A.418 Remedies supplementary to existing statutory or common law remedies; election of remedies. Nothing in ORS 646A.400 to 646A.418 is intended in any way to limit the rights or remedies that are otherwise available to a consumer under any other law. However, if the consumer elects to pursue any other remedy in state or federal court, the remedy available under ORS 646A.400 to 646A.418 shall not be available insofar as it would result in recovery in excess of the recovery authorized by ORS 646A.404 without proof of fault resulting in damages in excess of such recovery. [Formerly 646.375]

Chapter 742

MOTOR VEHICLE LIABILITY INSURANCE

Issuance of Proof of Insurance

742.447 Proof of insurance. (1) Every 742.447 Proof of insurance. (1) Every insurer that issues motor vehicle insurance that is designed to meet either the financial or future responsibility requirements of ORS chapter 806 shall issue with the policy proof of insurance that shows the effective date and the expiration date of the insurance.

(2) An insurer may provide proof of insurance under this section by issuing a card or, if the insured agrees, through electronic means.

(3) Nothing in this section requires an insurer to provide proof of insurance at any time other than when the policy is issued or renewed. [1993 c.746 §1; 2013 c.108 §1]

Note: 742.447 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 742 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

General Provisions

742.449 Prohibition on assignment to high risk category on certain grounds. An insurer issuing motor vehicle liability insurance policies in this state may not assign an insured or applicant for insurance to a higher risk category than the person would otherwise be assigned to solely because the person has:

(1) Let a prior motor vehicle liability policy lapse, unless the person was in violation of ORS 806.010 at any time after the prior policy lapsed; or

(2) Had driving privileges suspended pursuant to ORS 809.280 (6) or (8) if the suspension is based on a non-driving offense. [1989 c.419 §2; 1991 c.860 §6; 2011 c.355 §22]

742.450 Contents of motor vehicle liability policy; permitted exclusions; rules.

(1) Every motor vehicle liability insurance policy issued for delivery in this state shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability.

(2) Every motor vehicle liability insurance policy issued for delivery in this state shall contain an agreement or indorsement stating that, as respects bodily injury and death or property damage, or both, the insurance provides either:

(a) The coverage described in ORS 806.070 and 806.080; or

(b) The coverage described in ORS 806.270.

(3) The agreement or indorsement required by subsection (2) of this section shall also state that the insurance provided is subject to all the provisions of the Oregon Vehicle Code relating to financial responsibility requirements as defined in ORS 801.280 or future responsibility filings as defined in ORS 801.290, as appropriate.

(4) Every motor vehicle liability insurance policy issued for delivery in this state shall provide liability coverage to at least the limits specified in ORS 806.070.

(5) Every motor vehicle liability insurance policy issued for delivery in this state shall provide liability coverage, up to the limits of coverage under the policy for a vehicle owned by the named insured, for the operation by the named insured of a motor vehicle provided to the named insured, without regard to whether the named insured is charged for the use of the motor vehicle, if:

(a) The motor vehicle is provided to the named insured by a person engaged in the business of repairing or servicing motor vehicles; and

(b) The motor vehicle is provided to the named insured as a temporary replacement vehicle while the named insured's vehicle is being repaired or serviced.

(6) A motor vehicle liability insurance policy issued for delivery in this state may exclude by name from coverage required by subsection (2)(a) of this section any person other than the named insured, for any of the reasons stated in subsection (7) of this section. When an insurer excludes a person as provided by this subsection, the insurer shall obtain a statement or indorsement, signed by each of the named insureds, that the policy will not provide any coverage required by subsection (2)(a) of this section when the motor vehicle is driven by any named excluded person.

(7) A person may be excluded from coverage under a motor vehicle liability insurance policy as provided in subsection (6) of this section:

(a) Because of the driving record of the person. The Director of the Department of Consumer and Business Services by rule may establish restrictions on the use of the driving record in addition to other restrictions established by law.

(b) Because of any reason or set of criteria established by the director by rule.

(8) Every motor vehicle liability insurance policy issued for delivery in this state shall contain a provision that provides liability coverage for each family member of the insured residing in the same household as the insured in an amount equal to the amount of liability coverage purchased by the insured. [Formerly 486.541 and then 743.776; 1991 c.768 §3; 1999 c.438 §2; 2007 c.782 §1]

742.454 Liabilities that need not be covered. The motor vehicle liability insurance policy required by ORS 806.010, 806.060, 806.080, 806.240 or 806.270 need not insure any liability under any workers' compensation law; nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of a vehicle; nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured. [Formerly 486.546 and then 743.778]

742.456 When insurer's liability accrues; nonforfeiture provisions. The liability of an insurer with respect to the motor vehicle liability insurance policy required by ORS 806.060, 806.240 or 806.270 shall become absolute whenever injury or damage covered by the policy occurs. The policy may not be canceled or annulled as to such liability by any agreement between the insurer and the insured after the occurrence of the injury or damage. No statement made by the insured or on behalf of the insured and in violation of the policy shall defeat or void the policy. This section does not apply to motor vehicle liability insurance policies other than those required in connection with ORS 806.060, 806.240 or 806.270. [Formerly 486.551 and then 743.779]

742.458 General provisions governing liability policies. Every motor vehicle liability insurance policy shall be subject to the following provisions, which need not be contained therein:

(1) The policy, the written application therefor, if any, and any rider or indorsement that does not conflict with the laws relating to motor vehicle liability insurance policies shall constitute the entire contract between the parties.

(2) The satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurer to make payment on account of such injury or damage.

(3) Any binder issued pending the issuance of a motor vehicle liability insurance policy shall be deemed to fulfill the requirements for such a policy. [Formerly 486.556 and then 743.781]

742.460 Insurer's right to provide for reimbursement and proration. Any motor vehicle liability insurance policy may provide that the insured shall reimburse the insurer for any payment the insurer would not have been obligated to make under the terms of the policy except for the provisions of ORS 742.450 to 742.464, 806.080 and 806.270 and it may further provide for the prorating of the insurance thereunder with other valid and collectible insurance. [Formerly 486.561 and then 743.782; 1995 c.79 §363]

742.462 Insurer's right to settle claims. The insurer shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in respect to a motor vehicle liability insurance policy. [Formerly 486.564 and then 743.784]

742.464 Excess coverage permitted; combining policies to meet requirements. Any policy which grants the coverage required for a motor vehicle liability insurance policy under ORS 742.450, 806.080 and 806.270 may also grant any lawful coverage in excess of or in addition to the required coverage, and such excess or additional coverage shall not be subject to the provisions of ORS 742.031, 742.400 and 742.450 to 742.464. With respect to a policy which grants such excess or additional coverage only that part of the coverage which is required by ORS 806.080 and 806.270 is subject to the requirements of those sections. [Formerly 486.566 and then 743.785]

742.466 Disputes over coverage for physical damage; independent appraisal; rules. (1) In the event of a dispute between the insurer and insured under a motor vehicle liability policy concerning coverage for physical damage, if the policy contains a provision authorizing the insured to obtain an independent appraisal by a competent and disinterested person of the physical damage, that provision shall apply. An independent appraisal conducted under this section shall be performed by a person who has been issued a vehicle appraiser certificate under ORS 819.480 or a person who has been issued a vehicle appraiser certificate or license by another state or government body.

(2) When a motor vehicle liability policy contains a provision for resolving a dispute through appraisal of a motor vehicle insured under the policy, the insurer shall reimburse the insured for the reasonable appraisal costs if the final appraisal decision under the policy provision is greater than the amount of the insurer's last offer prior to the incurrence of the appraisal costs.

(3) If a motor vehicle liability policy does not contain a provision described in subsection (1) of this section, then notwithstanding any other provision of the policy, any resolution of the dispute shall be subject to rules adopted by the Director of the Department of Consumer and Business Services. [Formerly 743.840; 2009 c.65 §4; 2011 c.134 §1]

742.468 Certain policies not considered motor vehicle liability policies. For purposes of statutes mandating kinds or amounts of coverage that motor vehicle liability policies must contain, the following shall not be considered motor vehicle liability policies:

(1) Comprehensive general liability policies.

(2) Excess liability policies.

(3) Umbrella liability policies. [1993 c.709 §10]

Motorcycle Discount

742.480 Appropriate premium charge reduction for certain motorcycle insurance policies. (1) A rate, rating plan or rating system filed with the Director of the Department of Consumer and Business Services for a motor vehicle insurance policy offering liability, personal injury protection or collision coverage shall provide an appropriate reduction in premium charges for such coverage if:

(a) The principal operator of a covered motorcycle has successfully completed a motorcycle rider education course established under ORS 802.320. The course must be completed no more than three years prior to the beginning of the policy period for which the discounted rate applies.

(b) The motorcycle is not classified, for underwriting purposes, as used for a business.

(2) If the person qualifying for a premium reduction under subsection (1) of this section is the principal operator of two or more motorcycles, the premium discount applies to only one motorcycle. No more than one premium discount may be applied to one motorcycle.

(3) If a motor vehicle insurance policy insures motorcycles and other vehicles, the appropriate reduction in premium charges applies only to the motorcycle portion of the policy. [2009 c.771 §2]

Note: 742.480 to 742.486 were added to and made a part of the Insurance Code by legislative action but were not added to ORS chapter 742 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

742.483 Effective period for premium reduction. Except as otherwise provided in this section, the premium reduction required under ORS 742.480 shall be effective for an insured for a three-year period after successful completion of the approved course. [2009 c.771 §3]

Note: See note under 742.480.

742.486 Issuance and presentation of certificates for motorcycle rider education course. An organization offering a motorcycle rider education course established under ORS 802.320 shall issue a certificate to each person who successfully completes the course. The person shall present the certificate to an insurer to qualify for the premium reduction required under ORS 742.480. [2009 c.771 §4]

Note: See note under 742.480.

Age-Based Discount

742.490 Premium reduction; conditions; application. (1) Any rate, rating plan or rating system filed with the Director of the Department of Consumer and Business Services for a motor vehicle insurance policy offering liability, personal injury protection or collision coverage, shall provide an appropriate reduction in premium charges for such coverage if:

(a) The principal operator of the covered vehicle is an insured 55 years of age or older.

(b) The principal operator of the covered vehicle has successfully completed, within the appropriate time as specified in this subsection, a motor vehicle accident prevention course approved by the Department of Transportation. To meet the requirements of this subsection, a course must be completed no more than three years prior to the beginning of the policy period for which the discounted rate applies if the person is less than 70 years of age at the time of taking the course or no more than two years prior to the beginning of the policy period for which the discounted rate applies if the person is 70 years of age or more at the time of taking the course.

(c) There are no persons under 25 years of age who regularly operate the vehicle.

(d) The vehicle is not classified for underwriting purposes as used for a business.

(2) If the person qualifying for a premium reduction under subsection (1) of this section is the principal operator of two or more vehicles, the premium discount shall apply to only one vehicle. No more than one premium discount may be applied to one vehicle. [1989 c.379 §§2,4]

742.492 Duration of reduction. Except as otherwise provided in this section, the premium reduction required by ORS 742.490 (1) shall be effective for an insured for a three-year period after successful completion of the approved course if the person is less than 70 years of age at the time of taking the course or for a two-year period after successful completion of an approved course if the person is 70 years of age or more at the time of taking the course. An insurer may require, as a condition of maintaining the discount, that the insured:

(1) Not be involved in an accident for which the insured is at fault; and

(2) Not be convicted of or plead guilty or nolo contendere to a moving traffic violation. [1989 c.379 §3]

742.494 Certification of completion of course. Any organization offering a motor vehicle accident prevention course approved by the Department of Transportation shall issue a certificate to each person who successfully completes the course. The person shall present the certificate to an insurer to qualify for the premium discount required under ORS 742.490 (1). [1989 c.379 §5]

742.496 Limitation on qualification for discount. No person shall receive a discount under ORS 742.490 to 742.494 if the person takes the approved course as a punishment, specified by a court or other government entity, for a moving traffic violation. [1989 c.379 §6]

Uninsured Motorist Coverage

742.500 Definitions for ORS 742.500 to 742.506. As used in ORS 742.500 to 742.506:

(1) "Bodily injury" has the meaning given that term in ORS 742.504.

(2) "Insured" has the meaning given that term in ORS 742.504.

(3)(a) "Motor vehicle" means every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a public highway.

(b) "Motor vehicle" does not include:

(A) A device used exclusively on stationary rails or tracks;

(B) Motor trucks, as defined in ORS 801.355, that have a registration weight, as defined in ORS 803.430, of more than 8,000 pounds, if the insured has employees that operate the trucks and a workers' compensation law, a disability benefits law or a similar law covers the employees; or

(C) Farm-type tractors or self-propelled equipment designed for use principally off public highways.

(4) "Sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages" has the meaning given that term in ORS 742.504.

(5) "Uninsured motorist coverage" means coverage within the terms and conditions specified in ORS 742.504 that insures the insured or the heirs or legal representative of the insured for all sums that the insured or the heirs or legal representative is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises from owning, maintaining or using an uninsured vehicle in amounts or limits not less than the amounts or limits prescribed for bodily injury or death under ORS 806.070.

(6) "Uninsured vehicle" has the meaning given that term in ORS 742.504. [Formerly 743.786; 2015 c.5 §1]

742.502 Uninsured motorist coverage; underinsurance coverage. (1) Every motor vehicle liability policy that insures against a loss that a natural person suffers and that results from liability imposed by law for bodily injury or death that arises out of owning, maintaining or using a motor vehicle shall provide in the policy or by indorsement on the policy uninsured motorist coverage if the policy is either:

(a) Issued for delivery in this state; or

(b) Issued or delivered by an insurer that does business in this state with respect to any motor vehicle then principally used or principally garaged in this state.

(2)(a) A motor vehicle bodily injury liability policy must have the same limits for uninsured motorist coverage as for bodily injury liability coverage unless a named insured in writing elects

lower limits. The insured may not elect limits lower than the amounts prescribed to meet the requirements of ORS 806.070 for bodily injury or death. Uninsured motorist coverage must include underinsurance coverage for bodily injury or death caused by accident and arising out of the ownership, maintenance or use of a motor vehicle with motor vehicle liability insurance that provides recovery in an amount that is less than the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle. Underinsurance coverage must be equal to the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle up to the limits of the uninsured motorist coverage.

(b) If a named insured elects lower limits, the named insured shall sign a statement to elect lower limits within 60 days after the time the named insured makes the election. The statement must acknowledge that a named insured was offered uninsured motorist coverage with the limits equal to those for bodily injury liability. The statement must have a brief summary that is not part of the insurance contract and that describes what uninsured motorist coverage provides and what the underinsured coverage provides. The summary must also state the price for coverage with limits equal to the named insured's bodily injury liability limits and the price for coverage with the lower limits the named insured requested. The statement remains in force until a named insured rescinds the statement in writing or until the motor vehicle bodily injury liability limits are changed. The Department of Consumer and Business Services shall approve the form of statement that complies with this paragraph.

(c) A statement electing lower limits need not be signed if vehicles are either added to or subtracted from a policy or if the policy is amended, renewed, modified or replaced by the same insurer or an insurer within a group of companies that is under common ownership or control, unless the liability limits of the policy are changed.

(3) The insurer that issues the policy may offer one or more options of uninsured motorist coverage that are larger than the amounts prescribed to meet the requirements of ORS 806.070 and in excess of the limits provided under the policy for motor vehicle bodily injury liability insurance. Offers of uninsured motorist coverage must include underinsurance coverage for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using a motor vehicle with motor vehicle liability insurance that provides recovery in an amount that is less than the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle. Underinsurance coverage must be equal to the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises from owning, maintaining or using an uninsured vehicle up to the limits of the uninsured motorist coverage.

(4) Underinsurance coverage is subject to ORS 742.504 and 742.542.

(5) Uninsured motorist coverage and underinsurance coverage must provide coverage for bodily injury or death if the amount of liability insurance recovered is less than the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle.

(6) Uninsured motorist coverage and underinsurance coverage must provide coverage for bodily injury or death if the amount recovered from a self-insurer is less than the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle.

(7) As used in this section and except as otherwise provided in this subsection, "amount recovered from other motor vehicle liability insurance policies" means the proceeds of liability insurance or the proceeds received from a public body under ORS 30.260 to 30.300 that are recovered by or on behalf of the injured party. Proceeds recovered on behalf of the injured party include proceeds the injured party's insurer receives as reimbursement for personal injury protection benefits the insurer provides to the injured person, proceeds the medical providers of the injured person receive and proceeds received as attorney fees on the claim of the injured person. If applicable liability insurance policy limits are exhausted upon payment, settlement or judgment by division among two or more injured persons, "amount recovered from other motor vehicle liability insurance policies" means the proceeds that are recovered by or on behalf of the injured person but does not include any proceeds of the liability policy that other injured persons receive. [Formerly 743.789; 1993 c.709 §11; 1997 c.808 §1; 2003 c.220 §1; 2005 c.235 §1; 2007 c.287 §2; 2007 c.782 §2; 2009 c.67 §14; 2015 c.5 §2]

742.504 Required provisions of uninsured motorist coverage. Every policy required to provide the coverage specified in ORS 742.502 shall provide uninsured motorist coverage that in each instance is no less favorable

in any respect to the insured or the beneficiary than if the following provisions were set forth in the policy. However, nothing contained in this section requires the insurer to reproduce in the policy the particular language of any of the following provisions:

(1)(a) Notwithstanding ORS 30.260 to 30.300, the insurer will pay all sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages from the owner or operator of an uninsured vehicle because of bodily injury sustained by the insured caused by accident and arising out of the ownership, maintenance or use of the uninsured vehicle. Determination as to whether the insured, the insured's heirs or the insured's legal representative is legally entitled to recover such damages, and if so, the amount thereof, shall be made by agreement between the insured and the insurer, or, in the event of disagreement, may be determined by arbitration as provided in subsection (10) of this section.

(b) No judgment against any person or organization alleged to be legally responsible for bodily injury, except for proceedings instituted against the insurer as provided in this policy, shall be conclusive, as between the insured and the insurer, on the issues of liability of the person or organization or of the amount of damages to which the insured is legally entitled.

(2) As used in this policy:

(a) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

(b) "Hit-and-run vehicle" means a vehicle that causes bodily injury to an insured arising out of physical contact of the vehicle with the insured or with a vehicle the insured is occupying at the time of the accident, provided:

(A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascertained;

(B) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof; and

(C) At the insurer's request, the insured or the legal representative of the insured makes available for inspection the vehicle the insured was occupying at the time of the accident.

(c) "Insured," when unqualified and when applied to uninsured motorist coverage, means:

(A) The named insured as stated in the policy and any person designated as named insured in the schedule and, while residents of the same household, the spouse of any named insured and relatives of either, provided that neither the relative nor the spouse is the owner of a vehicle not described in the policy and that, if the named insured as stated in the policy is other than an individual or spouses in a marriage who are residents of the same household, the named insured shall be only a person so designated in the schedule;

(B) Any child residing in the household of the named insured if the insured has performed the duties of a parent to the child by rearing the child as the insured's own although the child is not related to the insured by blood, marriage or adoption; and

(C) Any other person while occupying an insured vehicle, provided the actual use thereof is with the permission of the named insured.

(d) "Insured vehicle," except as provided in paragraph (e) of this provision, means:

(A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of those terms is defined in the public liability coverage of the policy, insured under the public liability provisions of the policy; or

(B) A non-owned vehicle operated by the named insured or spouse if a resident of the same household, provided that the actual use thereof is with the permission of the owner of the vehicle and the vehicle is not owned by nor furnished for the regular or frequent use of the insured or any member of the same household.

(e) "Insured vehicle" does not include a trailer of any type unless the trailer is a described vehicle in the policy.

(f) "Occupying" means in or upon or entering into or alighting from.

(g) "Phantom vehicle" means a vehicle that causes bodily injury to an insured arising out of a motor vehicle accident that is caused by a vehicle that has no physical contact with the insured or the vehicle the insured is occupying at the time of the accident, provided:

(A) The identity of either the operator or the owner of the phantom vehicle cannot be ascertained;

(B) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an uninsured motorist claim resulting from the accident; and

(C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30 days thereafter

a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof.

(h) "State" includes the District of Columbia, a territory or possession of the United States and a province of Canada.

(i) "Stolen vehicle" means an insured vehicle that causes bodily injury to the insured arising out of a motor vehicle accident if:

(A) The vehicle is operated without the consent of the insured;

(B) The operator of the vehicle does not have collectible motor vehicle bodily injury liability insurance;

(C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer or to the equivalent department in the state where the accident occurred; and

(D) The insured or someone on behalf of the insured cooperates with the appropriate law enforcement agency in the prosecution of the theft of the vehicle.

(j) "Sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages" means the amount of damages that:

(A) A claimant could have recovered in a civil action from the owner or operator at the time of the injury after determination of fault or comparative fault and resolution of any applicable defenses;

(B) Are calculated without regard to the tort claims limitations of ORS 30.260 to 30.300; and

(C) Are no larger than benefits payable under the terms of the policy as provided in subsection (7) of this section.

(k) "Uninsured vehicle," except as provided in paragraph (L) of this provision, means:

(A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible motor vehicle bodily injury liability insurance, in at least the amounts or limits prescribed for bodily injury or death under ORS 806.070 applicable at the time of the accident with respect to any person or organization legally responsible for the use of the vehicle, or with respect to which there is collectible bodily injury liability insurance applicable at the time of the accident but the insurance company writing the insurance denies coverage or the company writing the insurance becomes voluntarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insolvent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident, the existence of a valid and collectible motor vehicle bodily injury liability insurance applicable at the time of the accident.

(B) A hit-and-run vehicle.

(C) A phantom vehicle.

(D) A stolen vehicle.

(E) A vehicle that is owned or operated by a self-insurer:

(i) That is not in compliance with ORS 806.130 (1)(c); or

(ii) That provides recovery to an insured in an amount that is less than the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle.

(L) "Uninsured vehicle" does not include:

(A) An insured vehicle, unless the vehicle is a stolen vehicle;

(B) Except as provided in paragraph (k)(E) of this subsection, a vehicle that is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;

(C) A vehicle that is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any such government;

(D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle;

(E) A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads; or

(F) A vehicle owned by or furnished for the regular or frequent use of the insured or any member of the household of the insured.

(m) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, but does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(3) This coverage applies only to accidents that occur on and after the effective date of the policy, during the policy period and within the United States of America, its territories or possessions, or Canada.

(4)(a) This coverage does not apply to bodily injury of an insured with respect to which the insured or the legal representative of the insured shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person or organization who may be legally liable therefor.

(b) This coverage does not apply to bodily injury to an insured while occupying a vehicle,

other than an insured vehicle, owned by, or furnished for the regular use of, the named insured or any relative resident in the same household, or through being struck by the vehicle.

(c) This coverage does not apply so as to inure directly or indirectly to the benefit of any workers' compensation carrier, any person or organization qualifying as a selfinsurer under any workers' compensation or disability benefits law or any similar law or the State Accident Insurance Fund Corporation.

(d) This coverage does not apply with respect to underinsured motorist benefits unless:

(A) The limits of liability under any bodily injury liability insurance applicable at the time of the accident regarding the injured person have been exhausted by payment of judgments or settlements to the injured person or other injured persons;

(B) The described limits have been offered in settlement, the insurer has refused consent under paragraph (a) of this subsection and the insured protects the insurer's right of subrogation to the claim against the tortfeasor;

(C) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement, and the insurer has consented under paragraph

(a) of this subsection; or

(D) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement and, if the insurer has refused consent under paragraph (a) of this subsection, the insured protects the insurer's right of subrogation to the claim against the tortfeasor.

(e) When seeking consent under paragraph (a) or (d) of this subsection, the insured shall allow the insurer a reasonable time in which to collect and evaluate information related to consent to the proposed offer of settlement. The insured shall provide promptly to the insurer any information that is reasonably requested by the insurer and that is within the custody and control of the insured. Consent will be presumed to be given if the insurer does not respond within a reasonable time. For purposes of this paragraph, a "reasonable time" is no more than 30 days from the insurer's receipt of a written request for consent, unless the insured and the insurer agree otherwise.

(5)(a) As soon as practicable, the insured or other person making claim shall give to the insurer written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment and other details entering into the determination of the amount payable hereunder. The insured and every other person making claim hereunder shall submit to examinations under oath by any person named by the insurer and subscribe the same, as often as may reasonably be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer fails to furnish the forms within 15 days after receiving notice of claim.

(b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit to physical examinations by physicians, naturopathic physicians, physician assistants or nurse practitioners selected by the insurer and shall, upon each request from the insurer, execute authorization to enable the insurer to obtain medical reports and copies of records.

(6) If, before the insurer makes payment of loss hereunder, the insured or the legal representative of the insured institutes any legal action for bodily injury against any person or organization legally responsible for the use of a vehicle involved in the accident, a copy of the summons and complaint or other process served in connection with the legal action shall be forwarded immediately to the insurer by the insured or the legal representative of the insured.

(7)(a) The limit of liability stated in the declarations as applicable to "each person" is the limit of the insurer's liability for all damages because of bodily injury sustained by one person as the result of any one accident and, subject to the above provision respecting each person, the limit of liability stated in the declarations as applicable to "each accident" is the total limit of the company's liability for all damages because of bodily injury sustained by two or more persons as the result of any one accident.

(b) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by the amount paid and the present value of all amounts payable on account of the bodily injury under any workers' compensation law, disability benefits law or any similar law.

(c) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by the credit given to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

(d) The amount payable under the terms of this coverage may not be reduced by the amount of liability proceeds offered, described in subsection (4)(d)(B) or (D) of this section, that has not been paid to the injured person. If liability proceeds have been offered and not paid, the amount payable under the terms of the coverage shall include the amount of liability limits offered but not accepted due to the insurer's refusal to con sent. The insured shall cooperate so as to permit the insurer to proceed by subrogation or

assignment to prosecute the claim against the uninsured motorist.

(8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured or the legal representative of the insured has fully complied with all the terms of this policy.

(9)(a) With respect to bodily injury to an insured:

(A) While occupying a vehicle owned by a named insured under this coverage, the insurance under this coverage is primary.

(B) While occupying a vehicle not owned by a named insured under this coverage, the insurance under this coverage shall apply only as excess insurance over any primary insurance available to the occupant that is similar to this coverage, and this excess insurance coverage shall then apply only to the sums that the insured or the heirs or legal representative of the insured is legally entitled to recover as damages for bodily injury or death that is caused by accident and that arises out of owning, maintaining or using an uninsured vehicle.

(b) With respect to bodily injury to an insured while occupying any motor vehicle used as a public or livery conveyance, the insurance under this coverage shall apply only as excess insurance over any other insurance available to the insured that is similar to this coverage, and this excess insurance coverage shall then apply only to the amount by which the applicable limit of liability of this coverage exceeds the sum of the applicable limits of liability of all other insurance.

(10) If any person making claim hereunder and the insurer do not agree that the person is legally entitled to recover damages from the owner or operator of an uninsured vehicle because of bodily injury to the insured, or do not agree as to the amount of payment that may be owing under this coverage, then, in the event the insured and the insurer elect by mutual agreement at the time of the dispute to settle the matter by arbitration, the arbitration shall take place as described in ORS 742.505. Any judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof, provided, however, that the costs to the insured of the arbitration proceeding do not exceed $100 and that all other costs of arbitration are borne by the insurer. "Costs" as used in this provision does not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts of the arbitration proceedings. The person and the insurer each agree to consider themselves bound and to be bound by any award made by the arbitrators pursuant to this coverage in the event of such election. At the election of the insured, the arbitration shall be held:

(a) In the county and state of residence of the insured;

(b) In the county and state where the insured's cause of action against the uninsured motorist arose; or

(c) At any other place mutually agreed upon by the insured and the insurer.

(11) In the event of payment to any person under this coverage:

(a) The insurer shall be entitled to the extent of the payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of the person against any uninsured motorist legally responsible for the bodily injury because of which payment is made;

(b) The person shall hold in trust for the benefit of the insurer all rights of recovery that the person shall have against such other uninsured person or organization because of the damages that are the subject of claim made under this coverage, but only to the extent that the claim is made or paid herein;

(c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one or more of whom is uninsured, the insured shall have the election to receive from the insurer any payment to which the insured would be entitled under this coverage by reason of the act or acts of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with legal action against any or all persons claimed to be liable to the insured for the injuries. If the insured elects to receive payment from the insurer under this coverage, then the insured shall hold in trust for the benefit of the insurer all rights of recovery the insured shall have against any other person, firm or organization because of the damages that are the subject of claim made under this coverage, but only to the extent of the actual payment made by the insurer;

(d) The person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights;

(e) If requested in writing by the insurer, the person shall take, through any representative not in conflict in interest with the person, designated by the insurer, such action as may be necessary or appropriate to recover payment as damages from such other uninsured person or organization, such action to be taken in the name of the person, but only to the extent of the payment made hereunder. In the event of a recovery, the insurer shall be reimbursed out of the recovery for expenses, costs and attorney fees incurred by the insurer in connection therewith; and

(f) The person shall execute and deliver to the insurer any instruments and papers as may be appropriate to secure the rights and obligations of the person and the insurer established by this provision.

(12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured

under this coverage unless within two years from the date of the accident:

(A) Agreement as to the amount due under the policy has been concluded;

(B) The insured or the insurer has formally instituted arbitration proceedings;

(C) The insured has filed an action against the insurer; or

(D) Suit for bodily injury has been filed against the uninsured motorist and, within two years from the date of settlement or final judgment against the uninsured motorist, the insured has formally instituted arbitration proceedings or filed an action against the insurer.

(b) For purposes of this subsection:

(A) "Date of settlement" means the date on which a written settlement agreement or release is signed by an insured or, in the absence of these documents, the date on which the insured or the attorney for the insured receives payment of any sum required by the settlement agreement. An advance payment as defined in ORS 31.550 shall not be deemed a payment of a settlement for purposes of the time limitation in this subsection.

(B) "Final judgment" means a judgment that has become final by lapse of time for appeal or by entry in an appellate court of an appellate judgment. [Formerly 743.792; 1993 c.18 §156; 1993 c.596 §38; 1997 c.808 §2; 2003 c.175 §2; 2005 c.22 §490; 2005 c.236 §1; 2005 c.246 §2; 2005 c.247 §2; 2007 c.131 §1; 2007 c.287 §3; 2007 c.328 §§5,6; 2007 c.457 §1; 2007 c.782 §3; 2009 c.67 §§15,16; 2011 c.192 §2; 2014 c.45 §76; 2015 c.5 §3; 2015 c.629 §59; 2017 c.356 §95]

742.505 Arbitration procedures under ORS 742.504. Unless the parties agree otherwise, arbitration proceedings under ORS 742.504 shall be conducted as follows:

(1) Parties to an arbitration proceeding shall submit the dispute to arbitration by a panel of three arbitrators. The panel shall consist of one arbitrator chosen by each party and one arbitrator chosen by the two arbitrators previously chosen to sit on the panel.

(2) An arbitration proceeding shall be conducted under local court rules in the county where the arbitration is held. [2007 c.328 §2]

Note: 742.505 was added to and made a part of ORS chapter 742 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

742.506 Allocation of responsibility among insurers. Notwithstanding the contrary provisions of any policy, the provisions of ORS 742.504 (9) shall control allocation of responsibility between insurers, except that if all policies potentially involved expressly allocate responsibility between insurers, or self-insurers, without repugnancy, then the terms of the policies shall control. [Formerly 743.795; 2015 c.5 §6]

742.508 Definitions for ORS 742.508 and 742.510. As used in this section and ORS 742.510:

(1) "Covered motor vehicle" means a private passenger motor vehicle or a self-propelled mobile home that is owned by the named insured for which a premium has been paid for coverage under this section and ORS 742.510.

(2) "Insured vehicle" means a motor vehicle described in the declarations for which a specific premium charge indicates that underinsured motorists coverage is afforded but the term "insured vehicle" shall not include a vehicle while used as a public or livery conveyance.

(3) "Private passenger motor vehicle" means a four-wheel passenger or station wagon type motor vehicle not more than 12 years old and not used as a public or livery conveyance, and includes any other four-wheel motor vehicle of the utility, pickup body, sedan delivery or panel truck type not used for wholesale or retail delivery.

(4)(a) "Uninsured vehicle" means:

(A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible property damage insurance, in at least the amounts or limits prescribed under ORS 806.070 (2)(c) applicable at the time of the accident with respect to any person or organization legally responsible for the use of such vehicle, or with respect to which there is such collectible insurance applicable at the time of the accident but the insurance company writing the same denies coverage thereunder or, within two years of the date of the accident, such company writing the same becomes voluntarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insolvent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident, the existence of valid and collectible property damage insurance applicable at the time of the accident.

(B) A hit-and-run vehicle as defined in subsection (5) of this section.

(C) A phantom vehicle as defined in subsection (5) of this section.

(b) As used in this section and ORS 742.510, "uninsured vehicle" does not include:

(A) An insured vehicle;

(B) A vehicle which is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;

(C) A vehicle which is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any of the foregoing;

(D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle;

(E) A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads; or

(F) A vehicle owned by or furnished for the regular or frequent use of the insured or any member of the household of the insured.

(5) As used in this section:

(a) "Hit-and-run vehicle" means a vehicle that causes damage to the covered vehicle of an insured arising out of physical contact between the vehicles, provided:

(A) There cannot be ascertained the identity of either the operator or the owner of such hit-and-run vehicle;

(B) The insured or someone on behalf of the insured reports the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and files with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof; and

(C) At the insurer's request, the insured or the legal representative of the insured makes available for inspection the vehicle which was insured at the time of the accident.

(b) "Phantom vehicle" means a vehicle that causes damage to the covered vehicle of an insured, although there is no physical contact between the vehicles, provided:

(A) There cannot be ascertained the identity of either the operator or the owner of such phantom vehicle;

(B) The facts of such accident can be corroborated by competent evidence other than the testimony of the insured or any passenger in the insured motor vehicle; and

(C) The insured or someone on behalf of the insured shall have reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and shall have filed with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof. [Formerly 743.796; 2003 c.175 §3]

Note: 742.508 and 742.510 [formerly 743.796 and 743.797] were added to and made a part of ORS chapter 743 by legislative action but were not added to ORS chapter 742 or any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

742.510 Property damage coverage for damage to vehicle caused by uninsured vehicle. (1) Every insurer issuing motor vehicle liability insurance policies on private passenger motor vehicles or on self-propelled mobile homes for delivery in this state shall have for sale coverage for property damage to a vehicle of the insured caused by an uninsured vehicle. Coverage offered under this section shall be at least the amount prescribed to meet the requirements of ORS 806.070 for insurance for injury to or destruction of the property of others in any one accident.

(2) A policy with the coverage described in this section does not cover the first $300 of property damage to the covered motor vehicle as the result of an accident with a hit-and-run vehicle or phantom vehicle. In all other cases the first $200 damage is not covered.

(3) Coverage for property damage described in this section:

(a) Applies only to the amount of damages the insured may be legally entitled to recover.

(b) Does not include coverage for loss of use of the covered vehicle. [Formerly 743.797; 1991 c.768 §5]

Note: See note under 742.508.

Personal Injury Protection Benefits

742.518 Definitions for ORS 742.518 to 742.542. As used in ORS 742.518 to 742.542:

(1) "Evaluation services" means physical examinations or reviews of medical records of beneficiaries conducted at the request of an insurer by either an employee of the insurer or a third-party medical record or bill review service to determine whether the provision or continuation of medical services is necessary or reasonable.

(2) "Managed care services" means any system of health care delivery that attempts to control or coordinate use of health care services in order to contain health care expenditures or improve quality of health care services.

(3) "Motor vehicle" means a self-propelled land motor vehicle or trailer, other than:

(a) A farm-type tractor or other self-propelled equipment designed for use principally off public roads, while not upon public roads;

(b) A vehicle operated on rails or crawler-treads; or

(c) A vehicle located for use as a residence or premises.

(4) "Motorcycle" and "moped" have the meanings given those terms in ORS 801.345 and 801.365.

(5) "Occupying" means in, or upon, or entering into or alighting from.

(6) "Pedestrian" means a person while not occupying a self-propelled vehicle other than a wheelchair or a similar low-powered motorized or mechanically propelled vehicle that is designed specifically for use by a person with a physical disability and that is determined to be medically necessary for the occupant of the wheelchair or other low-powered vehicle.

(7) "Personal injury protection benefits" means the benefits described in ORS 742.518 to 742.542.

(8) "Private passenger motor vehicle" means a four-wheel passenger or station wagon type motor vehicle not used as a public or livery conveyance, and includes any other four-wheel motor vehicle of the utility, pickup body, sedan delivery or panel truck type not used for wholesale or retail delivery other than farming, a self-propelled mobile home and a farm truck.

(9) "Proof of loss" means documentation that allows an insurer to determine whether a person is entitled to personal injury protection benefits and the amount of any benefit that is due.

(10) "Provider" has the meaning given that term in ORS 743B.001. [2005 c.465 §2; 2007 c.70 §318; 2007 c.692 §1]

742.520 Personal injury protection benefits for motor vehicle liability policies; applicability. (1) Every motor vehicle liability policy issued for delivery in this state that covers any private passenger motor vehicle shall provide personal injury protection benefits to the person insured thereunder, members of that person's family residing in the same household, children not related to the insured by blood, marriage or adoption who are residing in the same household as the insured and being reared as the insured's own, passengers occupying the insured motor vehicle and pedestrians struck by the insured motor vehicle.

(2) Personal injury protection benefits apply to a person's injury or death resulting:

(a) In the case of the person insured under the policy and members of that person's family residing in the same household, from the use, occupancy or maintenance of any motor vehicle, except the following vehicles:

(A) A motor vehicle, including a motorcycle or moped, that is owned or furnished or available for regular use by any of such persons and that is not described in the policy;

(B) A motorcycle or moped which is not owned by any of such persons, but this exclusion applies only when the injury or death results from such person's operating or riding upon the motorcycle or moped; and

(C) A motor vehicle not included in subparagraph (A) or (B) of this paragraph and not a private passenger motor vehicle. However, this exclusion applies only when the injury or death results from such person's operating or occupying the motor vehicle.

(b) In the case of a passenger occupying or a pedestrian struck by the insured motor vehicle, from the use, occupancy or maintenance of the vehicle.

(3) Personal injury protection benefits consist of payments for expenses, loss of income and loss of essential services as provided in ORS 742.524.

(4) An insurer shall pay all personal injury protection benefits promptly after proof of loss has been submitted to the insurer.

(5) The potential existence of a cause of action in tort does not relieve an insurer from the duty to pay personal injury protection benefits.

(6) Disputes between insurers and beneficiaries about the amount of personal injury protection benefits, or about the denial of personal injury protection benefits, shall be decided by arbitration if mutually agreed to at the time of the dispute. Arbitration under this subsection shall take place as described in ORS 742.521.

(7) An insurer:

(a) May not enter into or renew any contract that provides, or has the effect of providing, managed care services to beneficiaries.

(b) May enter into or renew any contract that provides evaluation services for beneficiaries. [Formerly 743.800; 1991 c.768 §6; 1993 c.282 §1; 1993 c.596 §39; 1995 c.658 §114; 1997 c.344 §§1,2; 1997 c.808 §§3,4; 1999 c.434 §1; 2003 c.813 §1; 2005 c.465 §3; 2007 c.328 §8]

742.521 Conditions applicable to arbitration proceedings. (1) Arbitration proceedings under ORS 742.520 shall be conducted under local court rules in the county where the arbitration is held.

(2) Findings and awards made in an arbitration proceeding under this section:

(a) Are binding on the parties to the arbitration proceeding;

(b) Are not binding on any other party; and

(c) May not be used for the purpose of collateral estoppel. [2007 c.328 §3]

Note: 742.521 was added to and made a part of ORS chapter 742 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

742.522 Binding arbitration under ORS 742.520; costs. (1) Costs to the insured of the arbitration proceeding under ORS 742.520 (6) shall not exceed $100 and all other costs of arbitration shall be borne by the insurer.

(2) As used in this section, "costs" does not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts of the arbitration proceedings. [Formerly 743.802; 2007 c.328 §9]

742.524 Contents of personal injury protection benefits; deductibles. (1) Personal injury protection benefits required by ORS 742.520 consist of the following payments for the injury or death of each person:

(a) All reasonable and necessary expenses of medical, hospital, dental, surgical, ambulance and prosthetic services incurred within two years after the date of the person's injury, but not more than $15,000 in the aggregate for all such expenses of the person. Expenses of medical, hospital, dental, surgical, ambulance and prosthetic services are presumed to be reasonable and necessary unless the provider receives notice of denial of the charges not more than 60 calendar days after the insurer receives from the provider notice of the claim for the services. At any time during the first 50 calendar days after the insurer receives notice of claim, the provider shall, within 10 business days, answer in writing questions from the insurer regarding the claim. For purposes of determining when the 60-day period provided by this paragraph has elapsed, counting of days shall be suspended if the provider does not supply written answers to the insurer within 10 days and may not resume until the answers are supplied.

(b) If the injured person is usually engaged in a remunerative occupation and if disability continues for at least 14 days, 70 percent of the loss of income from work during the period of the injured person's disability until the date the person is able to return to the person's usual occupation. This benefit is subject to a maximum payment of $3,000 per month and a maximum payment period in the aggregate of 52 weeks. As used in this paragraph, "income" includes but is not limited to salary, wages, tips, commissions, professional fees and profits from an individually owned business or farm.

(c) If the injured person is not usually engaged in a remunerative occupation and if disability continues for at least 14 days, the expenses reasonably incurred by the injured person for essential services that were performed by a person who is not related to the injured person or residing in the injured person's household in lieu of the services the injured person would have performed without income during the period of the person's disability until the date the person is reasonably able to perform such essential services. This benefit is subject to a maximum payment of $30 per day and a maximum payment period in the aggregate of 52 weeks.

(d) All reasonable and necessary funeral expenses incurred within one year after the date of the person's injury, but not more than $5,000.

(e) If the injured person is a parent of a minor child and is required to be hospitalized for a minimum of 24 hours, $25 per day for child care, with payments to begin after the initial 24 hours of hospitalization and to be made for as long as the person is unable to return to work if the person is engaged in a remunerative occupation or for as long as the person is unable to perform essential services that the person would have performed without income if the person is not usually engaged in a remunerative occupation, but not to exceed $750.

(2) With respect to the insured person and members of that person's family residing in the same household, an insurer may offer forms of coverage for the benefits required by subsection (1)(a), (b) and (c) of this section with deductibles of up to $250. [Formerly 743.805; 1991 c.768 §7; 2003 c.813 §2; 2005 c.341 §1; 2009 c.66 §1; 2015 c.5 §4]

742.525 Provider charges. (1) Except as provided in subsection (2) of this section, a provider shall charge a person who receives personal injury protection benefits or that person's insurer the lesser of:

(a) An amount that does not exceed the amount the provider charges the general public; or

(b) An amount that does not exceed the fee schedules for medical services published pursuant to ORS 656.248 for expenses of medical, hospital, dental, surgical and prosthetic services.

(2) For expenses of hospital services that are subject to the adjusted cost-to-charge ratio specified for a hospital in the hospital fee schedule published pursuant to ORS 656.248, a provider of hospital services shall charge a person who receives personal injury protection benefits or that person's insurer the greater of:

(a) The amount of the hospital charges multiplied by the adjusted cost-to-charge ratio specified for the hospital; or

(b) Ninety percent of the hospital charges. [2003 c.813 §4; 2005 c.341 §4; 2011 c.707 §1]

742.526 Primary nature of benefits. (1) The personal injury protection benefits with respect to:

(a) The insured and members of the family of the insured residing in the same household injured while occupying the insured motor vehicle shall be primary.

(b) Passengers injured while occupying the insured motor vehicle shall be primary.

(c) The insured and members of family residing in the same household injured as pedestrians shall be primary.

(d) The insured and members of family residing in the same household injured while occupying a motor vehicle not insured under the policy shall be excess.

(e) Pedestrians injured by the insured motor vehicle, other than the insured and members of family residing in the same household, shall be excess over any other collateral benefits to which

the injured person is entitled, including but not limited to insurance benefits, governmental benefits or gratuitous benefits.

(2) The personal injury protection benefits may be reduced or eliminated, if it is so provided in the policy, when the injured person is entitled to receive, under the laws of this state or any other state or the United States, workers' compensation benefits or any other similar medical or disability benefits. [Formerly 743.810]

742.528 Notice of denial of payment of benefits. An insurer who denies payment of personal injury protection benefits to or on behalf of an insured shall:

(1) Provide written notice of the denial, within 60 calendar days of receiving a claim from the provider, to the insured, stating the reason for the denial and informing the insured of the method for contesting the denial; and

(2) Provide a copy of the notice of the denial, within 60 calendar days of receiving a claim from the provider, to a provider of services under ORS 742.524 (1)(a). [Formerly 743.812; 1993 c.265 §1]

742.529 Payment based on incorrect determination of responsibility; notice; repayment. If personal injury protection benefits are paid based on information that appeared to establish proof of loss and the insurer paying the benefits later determines the insurer was not responsible for the payment, the insurer shall give notice and explanation to the provider that the payment was incorrectly issued. Immediately after receiving the notice and explanation the provider shall promptly repay the insurer. [2007 c.692 §3]

742.530 Exclusions from coverage. (1) The insurer may exclude from the coverage for personal injury protection benefits any injured person who:

(a) Intentionally causes self-injury;

(b) Is participating in any prearranged or organized racing or speed contest or practice or preparation for any such contest; or

(c) Willfully conceals or misrepresents any material fact in connection with a claim for personal injury protection benefits.

(2) The insurer may exclude from the coverage for the benefits required by ORS 742.524 (1)(b) and (c) any person injured as a pedestrian in an accident outside this state, other than the insured person or a member of that person's family residing in the same household. [Formerly 743.815; 2005 c.341 §2]

742.532 Benefits may be more favorable than those required by ORS 742.520, 742.524 and 742.530. Nothing in ORS 742.518 to 742.542 is intended to prevent an insurer from providing more favorable benefits than the personal injury protection benefits described in ORS 742.520, 742.524 and 742.530. [Formerly 743.820]

742.534 Reimbursement of other insurers paying benefits; arbitrating issues of liability and amount of reimbursement. (1) Except as provided in ORS 742.544, every authorized motor vehicle liability insurer whose insured is or would be held legally liable for damages for injuries sustained in a motor vehicle accident by a person for whom personal injury protection benefits have been furnished by another such insurer, or for whom benefits have been furnished by an authorized health insurer, shall reimburse such other insurer for the benefits it has so furnished if it has requested such reimbursement, has not given notice as provided in ORS 742.536 that it elects recovery by lien in accordance with that section and is entitled to reimbursement under this section by the terms of its policy. Reimbursement under this subsection, together with the amount paid to injured persons by the liability insurer, shall not exceed the limits of the policy issued by the insurer.

(2) In calculating such reimbursement, the amount of benefits so furnished shall be diminished in proportion to the amount of negligence attributable to the person for whom benefits have been so furnished, and the reimbursement shall not exceed the amount of damages legally recoverable by the person.

(3) Disputes between insurers as to such issues of liability and the amount of reimbursement required by this section shall be decided by arbitration.

(4) Findings and awards made in such an arbitration proceeding are not admissible in any action at law or suit in equity.

(5) If an insurer does not request reimbursement under this section for recovery of personal injury protection payments, then the insurer may only recover personal injury protection payments under the provisions of ORS 742.536 or 742.538. [Formerly 743.825; 1993 c.709 §7; 2007 c.392 §1]

742.536 Notice of claim or legal action to insurer; insurer to elect manner of recovery of benefits furnished; lien of insurer. (1) If an authorized motor vehicle liability insurer has furnished personal injury protection benefits, or an authorized health insurer has furnished benefits, to a person who was injured in a motor vehicle accident and the injured person makes a claim, or brings legal action, for damages for injuries against any other person, the injured person shall give notice of the claim or legal action to the insurer by personal service or by registered or certified mail. Service of a copy of the summons and complaint or copy of other process served in connection with the legal action is sufficient notice to the insurer, in which case a return showing service of the notice must be filed with the clerk of the court but is not a part of the record except to give notice.

(2) An insurer may elect to seek reimbursement as provided in this section for benefits the

insurer has furnished to the injured person out of any recovery the injured person obtains from a claim or legal action if the insurer has not been a party under ORS 742.534 to an interinsurer reimbursement proceeding with respect to benefits the insurer furnished to the injured person and the insurer is entitled by the terms of the insurer's policy to the benefit of this section. The insurer shall give written notice of an election under this subsection by personal service or by registered or certified mail within 30 days after receiving the notice or knowledge of the claim or legal action to the person who made the claim or brought the legal action and to the person against whom the injured person made a claim or brought legal action. In the case of a legal action, a return showing service of the notice of election must be filed with the clerk of the court but is not a part of the record except to give notice to the claimant and the defendant of the lien of the insurer.

(3) If the insurer serves a written notice of the insurer's election under subsection (2) of this section and, if applicable, files a return showing service:

(a) Subject to ORS 742.544, an insurer has a lien, for not more than the amount of benefits the insurer furnished, against an injured person's recovery in an action for damages, less a proportionate amount of not more than 100 percent of the expenses, costs and attorney fees the injured person incurred in connection with the recovery. The proportionate amount must be calculated as the ratio between the amount of the lien before a reduction under this paragraph and the amount of the recovery.

(b) The injured person shall include the benefits the insurer furnished as damages in a claim or legal action.

(c) In the case of a legal action, the action must be taken in the name of the injured person.

(4) As used in this section, "makes a claim" means delivers a written demand for a specific amount of damages that meets requirements reasonably established by the director's rule. [Formerly 743.828; 2019 c.460 §1]

742.538 Subrogation rights of insurers to certain amounts received by injured person; recovery actions against persons causing injury. If a motor vehicle liability insurer has furnished personal injury protection benefits, or a health insurer has furnished benefits, to a person who was injured in a motor vehicle accident and the interinsurer reimbursement benefit of ORS 742.534 is not available under the terms of that section, the insurer has not elected recovery by lien as provided in ORS 742.536, and the insurer is entitled by the terms of the insurer's policy to the benefit of this section:

(1) Subject to ORS 742.544, the insurer is entitled to the proceeds of any settlement or judgment that results from the exercise of any rights of recovery the injured person has against any person legally responsible for the accident, to the extent of the benefits the insurer furnished less the insurer's share of expenses, costs and attorney fees the injured person incurred in connection with the recovery.

(2) The injured person shall hold in trust for the benefit of the insurer the amount to which the insurer is entitled under this section, which may not exceed the amount of benefits the insurer furnished.

(3) The injured person shall do whatever is proper to secure, and may not prejudice, the rights an insurer has under this section.

(4) If requested in writing by the insurer, the injured person shall take, in the injured person's name and through any representative the insurer designates who is not in conflict in interest with the injured person, such action as is necessary or appropriate to recover the amounts to which the insurer is entitled under this section, including amounts for the injured person's share of expenses, costs and attorney fees that the insurer incurred in connection with the recovery.

(5) In calculating respective shares of expenses, costs and attorney fees under this section, the basis of allocation must be the respective proportions borne to the total recovery by:

(a) Benefits the insurer furnished; and

(b) The total recovery less the benefits the insurer furnished.

(6) The injured person shall execute and deliver to the insurer instruments and papers as are appropriate to secure the rights and obligations of the insurer and the injured person as established by this section.

(7) Any provisions in a motor vehicle liability insurance policy or health insurance policy giving rights to the insurer relating to subrogation or the subject matter of this section must be construed and applied in accordance with the provisions of this section. [Formerly 743.830; 2019 c.460 §2]

742.542 Effect of personal injury protection benefits paid. Payment by a motor vehicle liability insurer of personal injury protection benefits for its own insured shall be applied in reduction of the amount of damages that the insured may be entitled to recover from the insurer under uninsured or underinsured motorist coverage for the same accident but may not be applied in reduction of the uninsured or underinsured motorist coverage policy limits. [Formerly 743.835; 1997 c.808 §10]

742.544 Reimbursement for benefits paid. (1)(a) As used in this subsection, "total amount of the recovery" means the amount that a person injured in a motor vehicle accident recovers from:

(A) Underinsured motorist benefits described in ORS 742.502 (2);

(B) Liability insurance coverage the injured person receives from other parties involved in the motor vehicle accident;

(C) Personal injury protection benefits or health insurance benefits; and

(D) Any other payment by or on behalf of the party that caused the motor vehicle accident.

(b) An insurer may not receive a reimbursement or subrogation for personal injury protection benefits or health benefits the insurer provided to a person injured in a motor vehicle accident from any recovery the injured person obtains in an action for damages except to the extent that:

(A) The injured person first receives full compensation for the injured person's injuries; and

(B) The reimbursement or subrogation is paid only from the total amount of the recovery in excess of the amount that fully compensates for the injured person's injuries.

(2) For purposes of this section, the following rebuttable presumptions apply:

(a) The amount of any judgment that an injured person obtains is the amount necessary to fully compensate for the injured person's injuries.

(b) An injured person has received full compensation for the injured person's injuries if the amount of the recovery is less than the coverage available to the injured person from the sum of benefits paid under another person's motor vehicle liability policy, under an underinsured motorist policy described in ORS 742.502 (2), as personal injury protection payments and from any other source of payment from or on behalf of the party whose fault caused the injuries.

(c) An injured person has not received full compensation for the injured person's injuries if the injured person recovers an amount that is equal to the coverage available to the injured person from the sum of benefits paid under another person's motor vehicle liability policy, under an underinsured motorist policy described in ORS 742.502 (2), as personal injury protection payments and from any other source of payment from or on behalf of the party whose fault caused the injuries.

(3) An insurer may not deny or refuse to provide benefits that are otherwise available to an injured person because of the potential the injured person has to make a claim or bring an action against another person or enter into a settlement with another person.

(4) A person with whom an injured person enters into a settlement or from whom the injured person obtains a judgment in connection with a claim or action may not name an insurer that seeks a reimbursement or subrogation under ORS 742.536 or 742.538 as a payee on a check, draft or other form of payment in satisfaction of the claim or judgment.

(5) An insurer may not delay, withhold or reduce benefits to an injured person because of an act or omission for which a third party is or may be liable or as a means of enforcing or attempting to enforce a claim for reimbursement or subrogation.

(6) An insurer that receives a reimbursement for benefits the insurer provided to an injured person shall apply the amount of the reimbursement as a credit against any lifetime maximum benefit set forth for the injured person in the policy, benefit plan or contract under which the insurer paid the benefits.

(7) A provision in a policy, benefit plan or contract that permits reimbursement or subrogation other than as provided in this section is void and unenforceable.

(8) This section does not:

(a) Prohibit insurers from coordinating benefits;

(b) Limit an insurer's right to seek reimbursement or subrogation to recover, without reduction, amounts the insurer paid for property damage;

(c) Limit an insurer that provided coverage against underinsured motorists from pursuing a claim against a party at fault; or

(d) Require a person to repay more than the amount of personal injury protection benefits that the person actually received. [1993 c.709 §9; 2015 c.5 §5; 2019 c.460 §4]

742.546 Required disclosure in release for bodily injuries related to personal injury protection benefits. (1) When a motor vehicle liability insurer obtains a release for bodily injuries within 60 calendar days following an accident from a person who is eligible to receive personal injury protection benefits under ORS 742.518 to 742.542, the release must state that, subject to the motor vehicle liability insurer's applicable limits of liability, the rights of an insurer furnishing personal injury protection to recover payments made for medical benefits from the motor vehicle liability insurer are not impaired.

(2) Nothing in this section impairs the rights of a motor vehicle liability insurer to contest a recovery claim from an insurer furnishing personal injury protection, based upon liability or the reasonableness or necessity of medical benefits paid by the insurer furnishing personal injury protection. [2009 c.545 §2]

Note: 742.546 and 742.548 were added to and made a part of the Insurance Code by legislative action but were not added to ORS chapter 742 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

742.548 Required language in disclosure; conditions for rescission of release. If a representative of a motor vehicle liability insurer obtains a release for a claim of bodily injuries in person from a person who is eligible to receive personal injury protection benefits under ORS 742.518 to 742.542:

(1) The representative of the insurer must provide the eligible person with a clear and conspicuous notice substantially similar to the following, which shall be incorporated into the insurer's release or provided in a separate document:

THE DOCUMENT YOU ARE BEING ASKED TO SIGN IS A BINDING CONTRACT THAT CONCLUDES YOUR CLAIM(S) AGAINST THE PARTIES IT IDENTIFIES. AFTER YOU SIGN IT YOU WILL NOT BE ABLE TO MAKE ANY FURTHER CLAIM(S) AGAINST THESE PARTIES.

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(2) The eligible person may rescind the release if the person provides the insurer written notice of rescission no later than five business days after the execution of the release and then promptly performs all other requisite acts for rescission of a contract. For the purposes of this subsection, notice of rescission is provided to an insurer on the date and time shown on a properly addressed proof of mailing or electronic transmission. [2009 c.545 §3]

Note: See note under 742.546.

Total Loss

742.554 Disclosures required by insurer to motor vehicle owner when insurer declares vehicle total loss. When an insurer declares a motor vehicle a total loss and offers to make a cash settlement to an insured or third-party owner of the motor vehicle, the insurer shall provide the insured or third-party owner:

(1) Any valuation or appraisal reports relied upon by the insurer to determine value; and

(2) A written statement in a form provided by the Director of the Department of Consumer and Business Services that includes:

(a) Information about total loss, vehicle valuation and the duties of the insurer; and

(b) The manner in which and under what circumstances the insured may contact the Division of Financial Regulation of the Department of Consumer and Business Services. [2009 c.65 §2; 2017 c.17 §55]

Note: 742.554 and 742.558 were added to and made a part of the Insurance Code by legislative action but were not added to ORS chapter 742 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

742.558 Dispute resolution process for total loss vehicles. (1) An insurer shall pay the insured or third-party owner of a motor vehicle the amount of the motor vehicle's value that is not in dispute if the insurer declares the motor vehicle a total loss and the insurer and the insured or third-party owner are unable to agree on the value of the motor vehicle. Acceptance of payment of the undisputed amount neither waives the rights of the insured or third-party owner under the policy nor prevents the insured or third-party owner from pursuing a claim for additional amounts. Payment of the undisputed amount by the insurer does not waive any rights of the insurer under the policy.

(2) An insurer is not obligated to pay the undisputed amount under subsection (1) of this section until the insured or third-party owner of the motor vehicle:

(a) Agrees to execute documents sufficient to transfer ownership of the motor vehicle to the insurer; and

(b) Authorizes the insurer, at the insurer's expense, to move the motor vehicle to a disclosed location selected by the insurer, where the motor vehicle will remain available for inspection and evaluation for not fewer than 14 calendar days.

(3) After the expiration of the 14-day period under subsection (2) of this section, the insurer may proceed with the salvage sale of the motor vehicle. [2009 c.65 §3]

Note: See note under 742.554.

Cancellation

742.560 Definitions for ORS 742.560 to 742.572. As used in ORS 742.560 to 742.572:

(1) "Cancellation" means termination of coverage by an insurer, other than termination at the request of the insured, during a policy period.

(2) "Expiration" means termination of coverage by reason of the policy having reached the end of the term for which it was issued or the end of the period for which a premium has been paid.

(3) "Nonpayment of premium" means failure of the named insured to discharge when due any of the insured's obligations in connection with the payment of premiums on the policy, or any installment of such premium, whether the premium is payable directly to the insurer or an insurance producer who is its agent or indirectly under any premium finance plan or extension of credit.

(4) "Non-renewal" means a notice by an insurer to the named insured that the insurer is unwilling to renew a policy.

(5) "Policy" means any insurance policy that provides automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or automobile physical damage coverage on individually owned private passenger vehicles, including pickup and panel trucks and station wagons, that are not used as a public or livery conveyance for passengers, nor rented to others. However, ORS 742.560 to 742.572 do not apply to any policy:

(a) Issued under an automobile assigned risk plan;

(b) Insuring more than four automobiles;

(c) Covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards; or

(d) Issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance or use of a motor vehicle on the premises of such insured or on the ways immediately adjoining such premises.

(6) "Renewal" or "to renew" means to continue coverage for an additional policy period upon expiration of the current policy period of a policy. Any policy with a policy period or term of less than six months shall for the purpose of ORS 742.560 to 742.572 be considered as if written for a policy period or term of six months. Any policy written for a term longer than one year or any policy with no fixed expiration date shall for the purpose of ORS 742.560 to 742.572 be considered as if written for successive policy periods or terms of one year but not extending beyond the actual term for which the policy was written. [Formerly 743.900; 2003 c.364 §103; 2007 c.71 §239]

742.562 Grounds for cancellation of policies; notice required; applicability. (1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) Nonpayment of premium.

(b) Fraud or material misrepresentation affecting the policy or in the presentation of a claim thereunder, or violation of any of the terms or conditions of the policy.

(c) The named insured or any operator either resident in the same household or who customarily operates an automobile insured under the policy has had driving privileges suspended or revoked pursuant to law during the policy period, or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date. An insurer may not cancel a policy for the reason that the driving privileges of the named insured or operator were suspended pursuant to ORS 809.280 (6) or (8) if the suspension was based on a non-driving offense.

(2) This section shall not apply to any policy or coverage which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(3) This section shall not apply to nonrenewal. [Formerly 743.905; 1991 c.860 §7a; 2011 c.355 §23]

742.564 Manner of giving cancellation notice. (1) No notice of cancellation of a policy to which ORS 742.562 applies shall be effective unless mailed or delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation and accompanied by a statement of the reason or reasons for cancellation, provided, however, that where cancellation is for nonpayment of premium at least 10 days' notice of cancellation accompanied by the reason therefor shall be given.

(2) This section shall not apply to nonrenewal. [Formerly 743.910]

742.566 Renewal of policies; replacement policy in lieu of renewal; requirements for refusal to renew. (1) An insurer shall offer renewal of a policy to an insured, contingent upon payment of premium as stated in the offer, unless the insurer mails or delivers to the named insured, at the address shown in the policy, at least 30 days' advance notice of nonrenewal. The notice must contain or be accompanied by a statement of the reason or reasons for nonrenewal.

(2)(a) If an insurer offers to an insured, in lieu of a renewal, a replacement policy from a different company that is part of a group of companies that is under the same ownership or control as the insurer, any new terms, rates and policy provisions in the replacement policy take effect on the renewal date if the insurer sends the insured and any insurance producer with whom the insured previously dealt notice at least 45 days before the renewal date. The notice must include the replacement policy or a description of any terms in the replacement policy that differ from the policy that the insurer will not renew.

(b) An insured may cancel a replacement policy at any point before the replacement policy becomes effective.

(c) Earned premium for any period of time in which a replacement policy was in effect before a cancellation must be calculated pro rata at the lower of the current rate or the previous year's rate.

(d) If an insured accedes to a replacement policy, any increase in premium or change in policy terms is effective on the day after the previous policy expires.

(e) The notice required under this subsection applies only if the company that offers a replacement policy is different from the company that issued the policy that would otherwise be subject to renewal.

(3) An insurer need not notify the named insured or any other insured of nonrenewal of the policy if the insurer has mailed or delivered a notice of expiration or cancellation on or prior to the 30th day preceding expiration of the policy period.

(4) Notwithstanding an insurer's failure to comply with this section, the policy terminates on the effective date of any replacement or succeeding automobile insurance policy, with respect to any automobile designated in both policies.

(5) An insurer may not refuse to renew a policy for the reason that the driving privileges of the named insured or any operator either resident in the same household or who customarily

operates an automobile insured under the policy were suspended pursuant to ORS 809.280 (6) or (8) if the suspension was based on a non-driving offense. [Formerly 743.916; 1991 c.860 §7b; 2011 c.355 §24; 2017 c.250 §1]

742.568 Proof of cancellation, replacement or nonrenewal notice. Proof of mailing notice of cancellation, notice of replacement, notice of intention not to renew or notice of reasons for cancellation, to the named insured at the address shown in the policy, is sufficient proof of notice. [Formerly 743.920; 2017 c.250 §2]

742.570 Notifying insured under canceled or unrenewed policy of eligibility for participation in insurance pool. When automobile bodily injury and property damage liability coverage is canceled, other than for nonpayment of premium, or in the event of failure to renew automobile bodily injury and property damage liability coverage to which ORS 742.566 applies, the insurer shall notify the named insured of possible eligibility for automobile liability insurance through any insurance pool or facility operating in this state, whether voluntarily or under statute or rule. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. [Formerly 743.925]

742.572 Immunity from liability of persons furnishing information regarding cancellation or nonrenewal of policies. There shall be no liability on the part of and no cause of action of any nature shall arise against the Director of the Department of Consumer and Business Services or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal, or providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith. [Formerly 743.930]

Report by Insurer to Department of Transportation

742.580 Report of cancellation, nonrenewal or issuance of motor vehicle liability policy. Every insurer that issues motor vehicle insurance that is designed to meet either the financial or future responsibility requirements of ORS chapter 806 shall report to the Department of Transportation within 30 days of the day that a person or the insurer cancels or fails to renew such a policy and within 15 days of the day that an insurer issues such a policy. The insurer shall report the person's name and residence address, the vehicle identification number of each vehicle covered by the policy, whether the policy was bought, canceled or not renewed and any other information required by the department by rule under ORS 806.195. [1993 c.746 §4]

Personal Vehicle Sharing

742.585 Definitions for ORS 742.585 to 742.600. As used in ORS 742.585 to 742.600:

(1) "Owner's insurance policy" means a private passenger motor vehicle liability insurance policy that includes:

(a) All coverage necessary to comply with the financial or future responsibility requirements of ORS chapter 806;

(b) The personal injury protection coverage required under ORS 742.518 to 742.542;

(c) The uninsured motorist coverage required under ORS 742.500 to 742.506; and

(d) Any optional coverage selected by the owner.

(2) "Personal vehicle sharing" means the use of a private passenger motor vehicle by persons other than the vehicle's registered owner in connection with a personal vehicle sharing program.

(3) "Personal vehicle sharing program" means a legal entity qualified to do business in this state engaged in the business of facilitating the sharing of private passenger motor vehicles for noncommercial use by individuals within this state.

(4) "Private passenger motor vehicle" means a four-wheel passenger or station wagon type motor vehicle insured under a motor vehicle liability insurance policy covering a single individual or individuals residing in the same household as the named insured.

(5) "Program insurance policy" means a motor vehicle liability insurance policy that is obtained by the personal vehicle sharing program and that:

(a) Includes all coverage needed to comply with the financial or future responsibility requirements of ORS chapter 806;

(b) Includes the personal injury protection coverage required under ORS 742.518 to 742.542;

(c) Includes the uninsured motorist coverage required under ORS 742.500 to 742.506;

(d) Includes comprehensive property damage coverage for the vehicle;

(e) Includes collision property damage coverage for the vehicle; and

(f) Does not include any other optional coverage selected by the owner of the vehicle and included in the owner's insurance policy. [2011 c.457 §2]

Note: 742.585 to 742.600 were added to and made a part of the Insurance Code by legislative action but were not added to ORS chapter 742 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

742.590 Personal vehicle sharing program requirements. For each vehicle that the program facilitates the use of, a personal vehicle sharing program shall:

(1) Provide a program insurance policy with coverage for the vehicle, the designated operator of the vehicle and all persons who, with the consent of the named insured, use the motor vehicle insured under the policy. The limits for any coverage included in the program insurance policy that is also included in the owner's insurance policy must be equal to or greater than the coverage limits provided in the owner's insurance policy, as reported to the program by the owner. However, the program may not provide liability coverage that is less than three times the limits specified in ORS 806.070.

(2) Provide the vehicle's registered owner with a proof of compliance with the insurance requirements of this section and the financial or future responsibility requirements of ORS chapter 806, a copy of which must be maintained in the vehicle by the vehicle's registered owner at all times when the vehicle is operated by any person other than the vehicle's registered owner pursuant to the program.

(3) Collect, maintain and make available to the vehicle's registered owner, the vehicle's registered owner's primary motor vehicle liability insurer and any government agency as required by law, at the cost of the program:

(a) Verifiable electronic records that identify the date and time, initial and final locations of the vehicle and miles driven when the vehicle is under the control of a person other than the vehicle's registered owner pursuant to the program; and

(b) Any information concerning damages or injuries arising out of personal vehicle sharing pursuant to the program.

(4) Not knowingly permit the vehicle to be operated as a commercial vehicle by a personal vehicle sharing user while engaged in personal vehicle sharing. For the purposes of this subsection, "commercial vehicle" has the meaning given that term in ORS 826.001.

(5) Ensure that the vehicle is a private passenger motor vehicle.

(6) Facilitate the installation, operation and maintenance of signage and computer hardware and software necessary for the vehicle to be used in the program.

(7) Indemnify the vehicle's registered owner for the cost of damage or theft of equipment installed under subsection (6) of this section and any damage caused to the vehicle by the installation, operation or maintenance of the equipment.

(8) Provide the vehicle's registered owner and any person operating the vehicle pursuant to the program with a disclosure that contains information explaining the requirements of this section. [2011 c.457 §3]

Note: See note under 742.585.

742.595 Assumption of liability; exceptions; indemnification; prohibition on policy cancellation. (1) Notwithstanding any provision in the owner's insurance policy and notwithstanding ORS chapters 742, 806, 822 and 825 and ORS 30.010 to 30.100, 30.135, 30.480 and 30.485, in the event of any loss or injury that occurs at any time when the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a personal vehicle sharing program, or is otherwise under the control of a personal vehicle sharing program, the program shall assume all liability of the vehicle owner and shall be considered the vehicle owner for all purposes.

(2) Nothing in subsection (1) of this section:

(a) Limits the liability of a personal vehicle sharing program for any acts or omissions by the program that result in injury to any persons as a result of the use or operation of the program; or

(b) Limits the ability of the personal vehicle sharing program to, by contract, seek indemnification from the vehicle's registered owner for any claims paid by the personal vehicle sharing program for any loss or injury resulting from fraud or material misrepresentation in the maintenance of the vehicle by the vehicle's registered owner.

(3) A personal vehicle sharing program continues to be liable under subsection (1) of this section until:

(a) The vehicle is returned to a location designated by the program; and

(b)(A) The expiration of the time period established for the vehicle occurs;

(B) The intent to terminate the vehicle's personal vehicle sharing use is verifiably communicated to the program; or

(C) The vehicle's registered owner takes possession and control of the vehicle.

(4)(a) A personal vehicle sharing program shall assume liability for a claim in which a dispute exists as to who was in control of a private passenger motor vehicle when the loss giving rise to the claim occurred.

(b) The insurer of the vehicle shall indemnify the program to the extent of the insurer's obligation under the owner's insurance policy, if it is determined that the vehicle's registered owner was in control of the vehicle at the time of the loss.

(5) If a private passenger motor vehicle's registered owner is named as a defendant in a civil action for any loss or injury that occurs at any time when the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a personal vehicle sharing program, or is otherwise under the control of a personal vehicle sharing program,

the program shall have the duty to defend and indemnify the vehicle's registered owner.

(6) Notwithstanding any provision in the owner's insurance policy, while the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a personal vehicle sharing program, or is otherwise under the control of a personal vehicle sharing program:

(a) The insurer of the vehicle on file with the Department of Transportation may exclude any and all coverage afforded under the insurer's policy; and

(b) A primary or excess insurer of the owners, operators or maintainers of the vehicle may notify an insured that the insurer has no duty to defend or indemnify any person or organization for liability for any loss that occurs during use of the vehicle pursuant to a personal vehicle sharing program.

(7) An owner's insurance policy for a private passenger motor vehicle may not be canceled, voided, terminated, rescinded or nonrenewed solely on the basis that the vehicle has been made available for personal vehicle sharing pursuant to a personal vehicle sharing program that is in compliance with the provisions of ORS 742.585 to 742.600. [2011 c.457 §4]

Note: See note under 742.585.

742.600 Limitation on insurance policy reclassification for personal vehicle sharing program vehicle. A private passenger motor vehicle insured by the vehicle's registered owner under an owner's insurance policy may not be classified as a commercial motor vehicle, for-hire motor vehicle, permissive use motor vehicle or livery solely because the vehicle's registered owner allows the vehicle to be used for personal vehicle sharing if:

(1) The personal vehicle sharing is conducted under a personal vehicle sharing program.

(2) The annual revenue received by the vehicle's registered owner that was generated by the personal vehicle sharing does not exceed the annual expenses of owning and operating the vehicle, including depreciation, interest, lease payments, motor vehicle loan payments, insurance, maintenance, parking, fuel, cleaning, automobile repair and costs associated with personal vehicle sharing, including but not limited to the installation, operation and maintenance of computer hardware and software, signage identifying the vehicle as a personal vehicle sharing vehicle and any fees charged by a personal vehicle sharing program. [2011 c.457 §5]

Note: See note under 742.585.

Chapter 744

Vehicle Rental Companies

744.850 Definitions for ORS 744.850 to 744.858. As used in ORS 744.850 to 744.858:

(1) "Limited license" means a license issued under ORS 744.852 that authorizes a rental company to offer or sell insurance as provided in ORS 744.854.

(2) "Rental agreement" means a written agreement setting forth the terms and conditions governing use of a vehicle provided by a rental company for rent.

(3) "Rental company" means a person or entity in the business of providing vehicles to the public under a rental agreement for a period of 90 days or less.

(4) "Renter" means a person obtaining the use of a vehicle from a rental company for a period of 90 days or less.

(5) "Vehicle" means an automobile, van, minivan, sports utility vehicle, cargo van, recreational vehicle, motorcycle, all-terrain vehicle, trailer, pickup truck or truck with a gross vehicle weight of less than 26,000 pounds that does not require a commercial driver license to operate. [1999 c.485 §2; 2007 c.719 §1]

Chapter 746

INSURANCE TRADE PRACTICES

746.015 Discrimination; noncompliance; hearing. (1) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life, or between risks of essentially the same degree of hazard, in the availability of insurance, in the application of rates for insurance, in the dividends or other benefits payable under insurance policies, or in any other terms or conditions of insurance policies.

(2) Discrimination by an insurer in the application of its underwriting standards or rates based solely on an individual's physical disability is prohibited, unless such action is based on sound actuarial principles or is related to actual or reasonably anticipated experience. For purposes of this subsection, "physical disability" shall include, but not be limited to, blindness, deafness, hearing or speaking impairment or loss, or partial loss, of function of one or more of the upper or lower extremities.

(3) Discrimination by an insurer in the application of its underwriting standards or rates based solely upon an insured's or applicant's attaining or exceeding 65 years of age is

prohibited, unless such discrimination is clearly based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(4)(a) An insurer may not, on the basis of the status of an insured or prospective insured as a victim of domestic violence or sexual violence, do any of the following:

(A) Deny, cancel or refuse to issue or renew an insurance policy;

(B) Demand or require a greater premium or payment;

(C) Designate domestic violence or sexual violence, physical or mental injuries sustained as a result of domestic violence or sexual violence or treatment received for such injuries as a condition for which coverage will be denied or reduced;

(D) Exclude or limit coverage for losses or deny a claim; or

(E) Fix any lower rate for or discriminate in the fees or commissions of an insurance producer for writing or renewing a policy.

(b) The fact that an insured or prospective insured is or has been a victim of domestic violence or sexual violence shall not be considered a permitted underwriting or rating criterion.

(c) Nothing in this subsection prohibits an insurer from taking an action described in paragraph (a) of this subsection if the action is otherwise permissible by law and is taken in the same manner and to the same extent with respect to all insureds and prospective insureds without regard to whether the insured or prospective insured is a victim of domestic violence or sexual violence.

(d) An insurer that complies in good faith with the requirements of this subsection shall not be subject to civil liability due to such compliance.

(e) For purposes of this subsection, "domestic violence" means the occurrence of one or more of the following acts between family or household members:

(A) Attempting to cause or intentionally or knowingly causing physical injury;

(B) Intentionally or knowingly placing another in fear of imminent serious physical injury; or

(C) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(f) For purposes of this subsection, "sexual violence" means the commission of a sexual offense described in ORS 163.305 to 163.467, 163.427 or 163.525.

(5) If the Director of the Department of Consumer and Business Services has reason to believe that an insurer in the application of its underwriting standards or rates is not complying with the requirements of this section, the director shall, unless the director has reason to believe the noncompliance is willful, give notice in writing to the insurer stating in what manner such noncompliance is alleged to exist and specifying a reasonable time, not less than 10 days after the date of mailing, in which the noncompliance may be corrected.

(6)(a) If the director has reason to believe that noncompliance by an insurer with the requirements of this section is willful, or if, within the period prescribed by the director in the notice required by subsection (5) of this section, the insurer does not make the changes necessary to correct the noncompliance specified by the director or establish to the satisfaction of the director that such specified noncompliance does not exist, the director may hold a hearing in connection therewith. Not less than 10 days before the date of such hearing the director shall mail to the insurer written notice of the hearing, specifying the matters to be considered.

(b) If, after the hearing, the director finds that the insurer's application of its underwriting standards or rates violates the requirements of this section, the director may issue an order specifying in what respects such violation exists and stating when, within a reasonable period of time, further such application shall be prohibited. If the director finds that the violation was willful, the director may suspend or revoke the certificate of authority of the insurer.

(7) Affiliated workers' compensation insurers having reinsurance agreements which result in one carrier ceding 80 percent or more of its workers' compensation premium to the other, while utilizing different workers' compensation rate levels without objective evidence to support such differences, shall be presumed to be engaging in unfair discrimination. [1967 c.359 §568; 1977 c.331 §1; 1979 c.140 §1; 1987 c.676 §2; 1987 c.884 §53; 1997 c.564 §1; 1999 c.59 §229; 2003 c.364 §134; 2007 c.70 §319; 2010 c.67 §1; 2013 c.681 §35]

746.035 Inducements not specified in policy. Except as otherwise expressly provided by the Insurance Code, no person shall permit, offer to make or make any contract of insurance, or agreement as to such contract, unless all agreements or understandings by way of inducement are plainly expressed in the policy issued thereon. [1967 c.359 §570]

746.075 Misrepresentation generally.

(1) A person may not engage, directly or indirectly, in any action described in subsection (2) of this section in connection with:

(a) The offer or sale of any insurance; or

(b) Any inducement or attempted inducement of any insured or person with ownership rights under an issued life insurance policy to lapse, forfeit, surrender, assign, effect a loan against, retain, exchange or convert the policy.

(2) Subsection (1) of this section applies to the following actions:

(a) Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages therein or the dividends or share of surplus to be received thereon;

(b) Making any false or misleading representation as to the dividends or share of surplus previously paid on similar policies;

(c) Making any false or misleading representation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(d) Using any name or title of any policy or class of policies misrepresenting the true nature thereof;

(e) Employing any device, scheme or artifice to defraud;

(f) Obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement, in light of the circumstances under which it was made, not misleading;

(g) Engaging in any other transaction, practice or course of business that operates as a fraud or deceit upon the purchaser, insured or person with policy ownership rights; or

(h) Materially misrepresenting the provider network of an insurer offering managed health insurance or preferred provider organization insurance as defined in ORS 743B.001, including its composition and the availability of its providers to enrollees in the plan. [1967 c.359 §574; 2001 c.266 §7]

746.100 Misrepresentation in insurance applications or transactions. No person shall make a false or fraudulent statement or representation on or relative to an application for insurance, or for the purpose of obtaining a fee, commission, money or benefit from an insurer or insurance producer. [Formerly 736.460; 2003 c.364 §138]

746.110 False, deceptive or misleading statements. No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading. [Formerly 736.608]

746.120 Illegal dealing in premiums. No person shall willfully collect any sum as premium or charge for insurance which is not then provided, or is not in due course to be provided subject to acceptance of the risk by the insurer, under an insurance policy issued by an insurer in conformity to the Insurance Code. [1967 c.359 §579]

746.195 Insurance on property securing loan or credit; certain practices by depository institutions prohibited. (1) A depository institution may not:

(a) Solicit the sale of insurance for the protection of real or personal property after a person indicates interest in securing a loan or credit extension, until the depository institution has agreed to make the loan or credit extension;

(b) Refuse to accept a written binder issued by an insurance producer as proof that temporary insurance exists covering the real or personal property that is the subject matter of, or security for, a loan or extension of credit, and that a policy of insurance will be issued covering that property. A written binder issued by an insurance producer or insurer covering real or personal property that is the subject matter of, or security for, a loan or extension of credit shall be effective until a policy of insurance is issued in lieu thereof, including within its terms the identical insurance bound under the binder and the premium therefor, or until notice of the cancellation of the binder is received by the borrower and the depository institution extending credit or offering the loan. When a depository institution closes on a binder under ORS 742.043, the insurance producer or insurer issuing the binder shall be bound to provide a policy of insurance, equivalent in coverage to the coverage set forth in the binder, within 60 days from the date of the binder. The provisions of this paragraph do not apply when prohibited by federal or state statute or regulations; or

(c) Use or disclose to any other insurance producer, other than the original insurance producer, the information relating to a policy of insurance furnished by a borrower unless the original insurance producer fails to deliver a policy of insurance within 60 days prior to expiration to the depository institution without first procuring the written consent of the borrower.

(2) As used in this section, "depository institution" means a financial institution as that term is defined in ORS 706.008. [1977 c.742 §4; 1987 c.916 §10; 2003 c.363 §12; 2003 c.364 §144a]

746.201 Depository institution to obtain required property insurance when borrower does not; notice required. (1) In a contract or loan agreement, or in a separate document accompanying the contract or loan agreement and signed by the mortgagor, borrower or purchaser, that provides for a loan or other financing secured by the mortgagor's, borrower's or purchaser's real or personal property and that authorizes the secured party to place insurance on the property when the mortgagor, borrower or purchaser fails to maintain the insurance as

required by the contract or loan agreement or the separate document, a warning in substantially the following form shall be set forth in 10-point type:

WARNING

Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

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(2) Substantial compliance by a secured party with subsection (1) of this section constitutes a complete defense to any claim arising under the laws of this state challenging the secured party's placement of insurance on the real or personal property in which the secured party has a security interest, for the protection of the secured party's interest in the property.

(3) Nothing contained in this section shall be construed to require any secured party to place or maintain insurance on real or personal property in which the secured party has a security interest, and the secured party shall not be liable to the mortgagor, borrower or purchaser or to any other party as a result of the failure of the secured party to place or maintain such insurance.

(4) The failure of a secured party prior to January 1, 1996, to include in a contract or loan agreement, or in a separate document accompanying the contract or loan agreement, the notice set forth in subsection (1) of this section shall not be admissible in any court or arbitration proceeding or otherwise used to prove that a secured party's actions with respect to the placement or maintenance of insurance on real or personal property in which the secured party has a security interest are or were unlawful or otherwise improper. A secured party shall not be liable to the mortgagor, borrower or purchaser or to any other party for placing such insurance in accordance with the terms of an otherwise legal contract or loan agreement with the mortgagor, borrower or purchaser entered into prior to January 1, 1996. [1977 c.742 §5; 1995 c.313 §3; 2003 c.363 §13]

746.213 Definitions for ORS 746.213 to 746.219. As used in ORS 746.213 to 746.219:

(1) "Affiliate" means any company that controls, is controlled by or is under common control with another company.

(2) "Customer" means an individual who purchases, applies to purchase or is solicited to purchase insurance products primarily for personal, family or household purposes.

(3) "Depository institution" means a financial institution as that term is defined in ORS 706.008. [2003 c.363 §2]

Note: 746.213 to 746.219 were added to and made a part of the Insurance Code by legislative action but were not added to ORS chapter 746 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

746.215 Regulation of depository institutions with regard to insurance sales or solicitations. (1) A depository institution or an affiliate of a depository institution that lends money or extends credit may not:

(a) As a condition precedent to the lending of money or extension of credit, or any renewal thereof, require that the person to whom the money or credit is extended, or whose obligation a creditor is to acquire or finance, negotiate any policy or renewal thereof through a particular insurer or group of insurers or insurance producer or group of insurance producers.

(b) Reject an insurance policy solely because the policy has been issued or underwritten by a person who is not associated with the depository institution or affiliate when insurance is required in connection with a loan or the extension of credit.

(c) As a condition for extending credit or offering any product or service that is equivalent to an extension of credit, require that a customer obtain insurance from a depository institution or an affiliate of a depository institution, or from a particular insurer or insurance producer. This paragraph does not prohibit a depository institution or an affiliate of a depository institution from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance or that insurance is available from the depository institution or an affiliate of the depository institution.

(d) Unreasonably reject an insurance policy furnished by the customer or borrower for the protection of the property securing the credit or loan. A rejection is not considered unreasonable if it is

based on reasonable standards that are uniformly applied and that relate to the extent of coverage required and to the financial soundness and the services of an insurer. The standards may not discriminate against any particular type of insurer or call for rejection of an insurance policy because the policy contains coverage in addition to that required in the credit transaction.

(e) Require that any customer, borrower, mortgagor, purchaser, insurer or insurance producer pay a separate charge in connection with the handling of any insurance policy required as security for a loan on real estate, or pay a separate charge to substitute the insurance policy of one insurer for that of another. A charge prohibited in this paragraph does not include the interest that may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document. This paragraph does not apply to charges that would be required when the depository institution or an affiliate of a depository institution is the licensed insurance producer providing the insurance.

(f) Require any procedures or conditions of an insurer or insurance producer not customarily required of insurers or insurance producers affiliated or in any way connected with the depository institution.

(g) Use an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that the federal government or the state is responsible for the insurance sales activity of, or stands behind the credit of, the depository institution or its affiliate.

(h) Use an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that the federal government or the state guarantees any returns on insurance products or is a source of payment on any insurance obligation of or sold by the depository institution or its affiliate.

(i) Act as an insurance producer unless properly licensed in accordance with ORS 744.062, 744.063 or 744.064.

(j) Pay or receive any commission, brokerage fee or other compensation as an insurance producer, unless the depository institution or affiliate holds a valid insurance producer license for the applicable class of insurance. However, an unlicensed depository institution or affiliate may make a referral to a licensed insurance producer if the depository institution or affiliate does not negotiate, sell or solicit insurance. In the case of a referral of a customer, however, the unlicensed depository institution or affiliate may be compensated for the referral only if the compensation is a fixed dollar amount for each referral that does not depend on whether the customer purchases the insurance product from the licensed insurance producer. Any depository institution or affiliate that accepts deposits from the public in an area in which such transactions are routinely conducted in the depository institution may receive for each customer referral no more than a one-time, nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

(k) Solicit or sell insurance, other than credit insurance or flood insurance, unless the solicitation or sale is completed through documents separate from any credit transactions.

(L) Except as provided in ORS 746.201, include the expense of insurance premiums, other than credit insurance premiums or flood insurance premiums, in the primary credit transaction without the express written consent of the customer.

(m) Solicit or sell insurance unless the insurance sales activities of the depository institution or affiliate are, to the extent practicable, physically separated from areas where retail deposits are routinely accepted by depository institutions.

(n) Solicit or sell insurance unless the depository institution or affiliate maintains separate and distinct books and records relating to the insurance transactions, including all files relating to and reflecting consumer complaints.

(2) A depository institution or an affiliate of a depository institution that lends money or extends credit and that solicits insurance primarily for personal, family or household purposes shall disclose to the customer in writing that the insurance related to the credit extension may be purchased from an insurer or insurance producer of the customer's choice, subject only to the depository institution's right to reject a given insurer or insurance producer as provided in subsection (1)(d) of this section. The disclosure shall inform the customer that the customer's choice of insurer or insurance producer will not affect the credit decision or credit terms in any way, except that the depository institution may impose reasonable requirements concerning the creditworthiness of the insurer and the extent of cover age chosen as provided in subsection (1)(d) of this section. [2003 c.363 §3; 2005 c.22 §497]

Note: See note under 746.213.

746.217 Disclosures to customers. (1) A depository institution that sells insurance, and any person that sells insurance on behalf of a depository institution, or on the premises of a depository institution where the depository institution is engaged in the business of taking deposits or making loans, shall disclose to the customer in writing, when practicable and in a clear and conspicuous manner, prior to a sale, that the insurance:

(a) Is not a deposit;

(b) Is not insured by the Federal Deposit Insurance Corporation or any other federal government agency;

(c) Is not guaranteed by the depository institution or an affiliate of the depository institution

if applicable, or any person that is selling insurance if applicable; and

(d) When appropriate, involves investment risk, including the possible loss of value.

(2) The requirements of subsection (1) of this section apply:

(a) To an affiliate of a depository institution only to the extent that it sells insurance on the premises of a depository institution where the depository institution is engaged in the business of taking deposits or making loans or on behalf of a depository institution.

(b) When an individual purchases insurance primarily for personal, family or household purposes and only to the extent that the disclosure would be accurate.

(3) For the purpose of subsection (1) of this section, a person is selling insurance on behalf of a depository institution, whether on the premises of the depository institution or at another location, if either one of the following applies:

(a) The person represents to the customer that the sale of the insurance is by or on behalf of the depository institution; or

(b) The depository institution refers a customer to the person that sells insurance and the depository institution has a contractual arrangement to receive commissions or fees derived from the sale of insurance resulting from the referral. [2003 c.363 §4]

Note: See note under 746.213.

746.230 Unfair claim settlement practices. (1) An insurer or other person may not commit or perform any of the following unfair claim settlement practices:

(a) Misrepresenting facts or policy provisions in settling claims;

(b) Failing to acknowledge and act promptly upon communications relating to claims;

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;

(d) Refusing to pay claims without conducting a reasonable investigation based on all available information;

(e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

(f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;

(g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

(h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;

(i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;

(j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;

(k) Delaying investigation or payment of claims by requiring a claimant or the claimant's physician, naturopathic physician, physician assistant or nurse practitioner to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;

(L) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy;

(m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim; or (n) Any of the practices described in ORS 746.233.

(2) No insurer shall refuse, without just cause, to pay or settle claims arising under coverages provided by its policies with such frequency as to indicate a general business practice in this state, which general business practice is evidenced by:

(a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;

(b) A substantial increase in the number of lawsuits filed against the insurer or its insureds by claimants; or

(c) Other relevant evidence. [1967 c.359 §588a; 1973 c.281 §1; 1989 c.594 §1; 2014 c.45 §79; 2015 c.59 §6; 2017 c.356 §101; 2019 c.284 §10]

746.260 Driving record not to be considered in issuance of motor vehicle insurance. (1) As used in this section, "employment driving record" and "non-employment driving record" mean the employment driving record and non-employment driving record described in ORS 802.200.

(2) Except as provided in subsection (4) of this section, an insurer may not consider an individual's employment driving record or non-employment driving record in determining rates for, or whether to issue or renew, a policy of personal insurance, as defined in ORS 746.600, that provides, for the individual, automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or automobile physical damage coverage on an individually owned passenger vehicle, including pickup and panel trucks and station wagons. An insurer may not cancel the policy or discriminate in regard to other terms or conditions of the policy based

upon the individual's employment driving record or non-employment driving record.

(3) This section does not affect the enforcement of the motor vehicle laws.

(4) An insurer may use the abstract of the individual's non-employment driving record as authorized under ORS 746.265. [1973 c.113 §2; 1979 c.662 §2; 1983 c.338 §969; 1987 c.5 §6; 2015 c.76 §1]

746.265 Purposes for which abstract of non-employment driving record may be considered. (1) Subject to subsection (2) of this section, an insurer may consider the abstract of an individual's non-employment driving record under ORS 802.220 when evaluating the individual's application to obtain or renew personal insurance, as defined in ORS 746.600, that provides automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or automobile physical damage coverage on an individually owned passenger vehicle, including pickup and panel trucks and station wagons:

(a) For the purpose of determining whether to issue or renew the individual's policy.

(b) For the purpose of determining the rates of the individual's policy.

(2) For the purposes specified in subsection (1) of this section, an insurer that issues or renews a policy described in subsection (1) of this section may not consider any:

(a) Accident or conviction for violation of motor vehicle laws that occurred more than three years immediately preceding the application for the policy or for renewal of the policy;

(b) Diversion agreements under ORS 813.220 that were entered into more than three years immediately preceding the application for the policy or for renewal of the policy; or

(c) Suspension of driving privileges pursuant to ORS 809.280 (6) or (8) if the suspension is based on a non-driving offense.

(3) Subsection (2) of this section does not apply if an insurer considers an individual's non-employment driving record under ORS 802.220 for the purpose of providing a discount to the individual. [1987 c.5 §5; 1989 c.853 §1; 1991 c.860 §7; 1999 c.59 §231; 2001 c.327 §1; 2011 c.355 §25; 2015 c.76 §2]

746.275 Definitions for ORS 746.275 to 746.300. As used in ORS 746.275 to 746.300:

(1) "Adjuster" means a person authorized to do business under ORS 744.515 or 744.521.

(2) "Motor vehicle liability insurance policy" means an insurance policy which provides automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or automobile physical damage coverage on motor vehicles, but does not include any insurance policy:

(a) Covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards; or

(b) Issued principally to cover personal or premises liability of an insured, even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance or use of a motor vehicle on the premises of such insured or on the ways immediately adjoining such premises.

(3) "Motor vehicle body and frame repair shop" means a business or a division of a business organized for the purpose of effecting repairs to motor vehicles which have been physically damaged. [1977 c.785 §1; 2019 c.151 §41]

Note: 746.275 to 746.300 and 746.991 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 746 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

746.280 Designation of particular motor vehicle repair shop by insurer prohibited; notice; limitation of costs. (1) An insurer may not require that a particular person make the repairs to the insured's motor vehicle as a condition for recovery by the insured under a motor vehicle liability insurance policy.

(2) Prior to providing a recommendation that a particular person make repairs to the insured's motor vehicle, the person adjusting the claim on behalf of the insurer shall inform the insured of the rights conferred by subsection (1) of this section by communicating in a statement substantially similar to the following:

OREGON LAW PROHIBITS US FROM REQUIRING YOU TO GET REPAIRS TO YOUR VEHICLE AT A PARTICULAR MOTOR VEHICLE REPAIR SHOP. YOU HAVE THE RIGHT TO SELECT THE MOTOR VEHICLE REPAIR SHOP OF YOUR CHOICE.

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(3) If an insured elects to have the motor vehicle repaired at a motor vehicle repair shop other than a shop recommended by the insurer, the insurer may not limit the cost of repairs necessary to return the motor vehicle to a preloss condition relative to safety, function and appearance other than as stated in the policy or as otherwise allowed by law.

(4) If an insured accepts the insurer's recommendation, the insurer shall provide, electronically or in printed form, a statement to the insured within three business days after the date of acceptance in substantially the following form:

WE HAVE RECOMMENDED A MOTOR VEHICLE REPAIR SHOP. IF YOU AGREE TO

USE OUR RECOMMENDED REPAIR SHOP, YOUR VEHICLE WILL RECEIVE REPAIRS RETURNING IT TO A PRELOSS CONDITION RELATIVE TO SAFETY, FUNCTION AND APPEARANCE AT NO ADDITIONAL COST TO YOU OTHER THAN AS STATED IN THE INSURANCE POLICY OR AS OTHERWISE ALLOWED BY LAW.

[1977 c.785 §2; 2007 c.506 §1]

Note: See note under 746.275.

746.285 Notice of prohibition in motor vehicle repair shops; size; location. A person operating a motor vehicle body and frame repair shop shall display in a conspicuous place in the shop a sign in bold face type in letters at least two inches high reading substantially as follows:

PURSUANT TO OREGON INSURANCE LAW, AN INSURANCE COMPANY MAY NOT REQUIRE THAT REPAIRS BE MADE TO A MOTOR VEHICLE BY A PARTICULAR PERSON OR REPAIR SHOP.

[1977 c.785 §3]

Note: See note under 746.275.

746.287 Insurer requirement of installation of aftermarket crash part in vehicle. (1) Without the consent of the owner of the vehicle, an insurer may not require, directly or indirectly, that a motor vehicle body and frame repair shop supply or install any aftermarket crash part unless the part has been certified by an independent test facility to be at least equivalent to the part being replaced.

(2) For purposes of this section, an aftermarket crash part is at least equivalent to the part being replaced if the aftermarket crash part is the same kind of part and is at least the same quality with respect to fit, finish, function and corrosion resistance. [1987 c.622 §3]

Note: See note under 746.275.

746.289 Insurer offer of crash part warranty. Any insurer which offers a motor vehicle insurance policy that provides coverage for repair of the vehicle shall make available to its insured a crash part warranty for crash parts not made by the original equipment manufacturer as described in ORS 746.292 when the insured requests one. [1987 c.622 §4]

Note: 746.289 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 746 or 746.275 to 746.300 or any other series by legislative action. See Preface to Oregon Revised Statutes for further explanation.

746.290 Notice of prohibition in policies and by adjusters. (1) An adjuster establishing loss under a motor vehicle liability insurance policy shall advise the insured of the provisions of ORS 746.280.

(2) Every motor vehicle liability insurance policy issued in this state after December 31, 1977, and any extension or renewal after that date of a policy issued before that date shall be accompanied by a statement in clear and conspicuous language approved by the director of:

(a) The rights and responsibilities of the insured when a claim is submitted; and

(b) The provisions of ORS 746.280. [1977 c.785 §4]

Note: See note under 746.275.

746.292 Motor vehicle repair shops; invoices; estimates; warranties; prohibited practices. (1) All work done by a motor vehicle body and frame repair shop shall be recorded on an invoice and shall describe all service work done and parts supplied. If any used parts are supplied, the invoice shall clearly state that fact. If any component system installed is composed of new and used parts, such invoice shall clearly state that fact. One copy of the invoice shall be given to the customer and one copy shall be retained by the motor vehicle body and frame repair shop.

(2) Before commencing repair work and upon the request of any customer, a motor vehicle body and frame repair shop shall make an estimate in writing of the parts and labor necessary for the repair work, and shall not charge for the work done or parts supplied in excess of the estimate without the consent of such customer.

(3)(a) If crash parts to be used in the repair work are supplied by the original equipment manufacturer, the parts shall be accompanied by a warranty that guarantees the customer that the parts meet or exceed standards used in manufacturing the original equipment.

(b) If crash parts to be used in the repair work are not supplied by the original equipment manufacturer, the estimate shall include a statement that says:

This estimate has been prepared based on the use of a motor vehicle crash part not made by the original equipment manufacturer. The use of a motor vehicle crash part not made by the original equipment manufacturer may invalidate any remaining warranties of the original equipment manufacturer on that motor vehicle part. The person who prepared this estimate will provide a copy of the part warranty for crash parts not made by the original equipment manufacturer for comparison purposes.

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(4) No motor vehicle body and frame shop may:

(a) Supply or install used parts, or any component system composed of new and used parts, when new parts or component systems are or were to be supplied or installed.

(b) Supply or install, without the owner's consent, any aftermarket crash part unless the part has been certified by an independent test facility to be at least equivalent to the part being replaced. For purposes of this paragraph, an aftermarket crash part is at least equivalent to the part being replaced if the aftermarket crash part is the same kind of part and is at least the same quality with respect to fit, finish, function and corrosion resistance.

(c) Charge for repairs not actually performed, or add the cost of repairs not actually to be performed to any repair estimate.

(d) Refuse any insurer, or its insured, or their agents or employees, reasonable access to any repair facility for the purpose of inspecting or reinspecting the damaged vehicle during usual business hours.

(5) As used in ORS 746.287 and this section, "aftermarket crash part" means a motor vehicle replacement part, sheet metal or plastic, that constitutes the visible exterior of the vehicle, including an inner or outer panel, is generally repaired or replaced as the result of a collision and is not supplied by the original equipment manufacturer. [1977 c.785 §5; 1987 c.622 §1]

Note: See note under 746.275.

746.295 Proof and amount of loss under motor vehicle liability policies; determination by insurer. Nothing in ORS 746.275 to 746.300 or 746.991 shall prohibit an insurer from establishing proof of loss requirements for motor vehicle liability insurance policies, investigating and determining the amount of an insured's loss through its agents or employees or negotiating with any person for the repair of such loss. [1977 c.785 §6]

Note: See note under 746.275.

746.300 Liability of insurers and motor vehicle repair shops for damages; attorney fees. An insured whose insurer violates ORS 746.280 or 746.290, or a customer whose motor vehicle body and frame repair shop violates ORS 746.292, may file an action to recover actual damages or $100, whichever is greater, for each violation. The court may award reasonable attorney fees to the prevailing party in an action under this section. [1977 c.785 §7; 1981 c.897 §102; 1995 c.618 §129]

Note: See note under 746.275.

746.308 Violation of provisions regarding totaled vehicles as violation of Insurance Code. An insurer that violates ORS 819.014 or 819.018 shall be considered to have violated a provision of the Insurance Code. [1991 c.820 §7]

Note: 746.308 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 746 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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