

Section 1.1. Uniform Aviation Citation

ORS 837.100 authorizes the Director of the Oregon Department of Aviation to issue a citation for certain offenses described in ORS 837.990, as if the Director were a police officer. The Director may also specifically designate employees of the ODA to issue citations. Violations cited by the Director and designated employees shall be on the Oregon Uniform Aviation Citation and Complaint Form (Form xxxxx). All entries are to be made in ink and PRINTED, except for the signature of the issuing employee. Employees must take utmost care to ensure that all entries are legible, correct, and complete.

If a citation that has been filed with the court contains an error, ODA employees should bring the error to the court's attention and request an amendment to the citation. **NOTE:** Some courts automatically dismiss any citation in which there is an error.

When a base fine is more than \$6,250, the citation should be directed to Circuit Court because Justice Courts are able to assess fines only up to \$6,250.

Section 1.2. Possible violations

A citation may be issued for violations of any provision of ORS chapter 837 or for violation of any rule or order adopted under ORS chapter 837. Some possible violations include:

- ORS 837.015: failure to register or renew registration of an aircraft when required by ORS 837.040 to 837.070;
- ORS 837.020: failure to register or renew registration as a pilot;
- ORS 837.030: failure to exhibit federal certificate of competency and state certificate of registration on demand;
- ORS 837.075: failure to obtain or renew an aircraft dealer's license when required;
- ORS 837.085: dropping articles from an aircraft unless authorized by law;
- ORS 837.090: unauthorized non-emergency landing on public highway or public parks or other public grounds;
- OSR 837.095: unauthorized flight over or photography of military or naval property.

This list is not comprehensive.

Section 1.3 Required Information

The Complaint and Summons must contain certain information to be valid. ORS 153.048; ORS 153.051. The field numbers shown below correspond with the required fields shown in the citation example at page ____.

- Name of the court – fields
- Name of the defendant – field
- Statement of the offense(s) that can be readily understood - fields
- Date, time and place at which violation is alleged to have occurred – field
- Signature of citing officer certifying to the allegation – field
- Date the citation was issued – field
- Name of citing officer - field
- Time and place at which person cited is to appear in court – field
- The amount of base fine, if any, fixed for each offense – field

Section 1.4. Procedures for Issuing an Oregon Uniform Citation and Complaint

When a violation of the law has occurred, the officer must:

1. Decide whether a citation should be issued for the offense. (List considerations.)
2. Decide whether the authorized employee has authority to issue the citation.
 - a. ODA authorized employees have authority to issue citations only for violations, not for misdemeanors;
 - b. The conduct alleged to constitute a violation must have taken place in the presence of the ODA authorized employee; and
 - c. The authorized employee must have reasonable grounds to believe that the conduct constitutes a violation. ORS 153.042.
3. Guidelines for issuing multiple violations on the same citation. Up to three violations may be listed on the same citation form. (List guidelines, if any.)
4. To issue a citation:
 - a. Obtain the defendant's identification (driver's license, ODA registration, or other) and identifying information about the aircraft, if any.
 - b. Inform the defendant of the violation and that a citation is being issued.
 - c. Complete the citation (the numbers on the following pages correspond with the numbers on the sample citation form shown on page ____).
 - d. Citations must be written so that the defendant, the owner, the court, and other involved persons can understand the information (be careful with abbreviations).
5. Deliver the summons to the person cited and the complaint and abstract to the court.

NOTE: Defendants shall be scheduled to appear at the Court designated by ____, unless the defendant specifically requests to appear in another court having concurrent jurisdiction. Generally, the wishes of the local magistrates and the District Attorney should be followed. ODA employees shall not suggest or advise a defendant to request to be cited into a particular court.

Section 2.1. Courts with Authority to Hear Violations

A violation proceeding may be started in:

- a. The county in which the violation was committed (circuit court or justice court of the county or, if the violation occurred within a city, the municipal court of that city).
- b. Another county whose county seat is a shorter distance by road from the place where the violation was committed than the county seat of the county in which the violation was committed. (circuit court or, if the violation occurred within a city, the municipal court of that city). ORS 153.036.

(State any general rules about where ODA citations are heard, unless defendant asks for a different court.)

Section 2.2. Stop, Detention, and Arrest for Violations

An ODA employee with citation authority may stop and detain:

- a. any person if the authorized employee has reasonable grounds to believe that the person has committed a violation;
- b. any employee, agent or representative of a firm, corporation, or organization if the authorized employee has reasonable grounds to believe that the firm corporation or organization has committed a violation. ORS 159.039

An authorized ODA employee may stop and detain a person only long enough 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.

ODA employees may not arrest any person for a violation.

Section 2.3. Base Fines

Base fines are set by statute and published by the Oregon Judicial Department, Office of the State Court Administrator. ORS 153.125 to ORS 153.145; 2009 Minimum Base-Fine Schedule (MBFS-09) (dated October 1, 2009). The base fine is not the maximum fine that a court can impose; it is the fine amount that the defendant can pay to resolve the violation offense without having to do anything else, unless the law or the court requires

the defendant to appear. ORS 153.061. The court can impose a higher fine, up to the maximum statutory sanction, if the law or court requires the defendant to appear.

The base fine for a corporation is higher than that for an individual. Violations that may be cited by ODA employees under ORS 837.100 and ORS 837.990 are all classified by statute as Class A violations. (Violations of ORS 837.080, prohibited operation of an aircraft, is a Class B misdemeanor, employees of ODA may not issue citations for misdemeanors.)

The current minimum base fines for Class A violations are:

<u>Individual</u>	
1. Basic	\$472
2. Accident/injury/risk – substantial contributing factor to an accident resulting in property damage or injury or substantial risk of injury	\$522
<u>Corporation</u>	
3. Basic	\$868
4. Accident/injury/risk – substantial contributing factor to an accident resulting in property damage or injury or substantial risk of injury	\$1012

The current maximum fines for Class A violations are \$720 for an individual defendant and \$1480 for a corporation that is a defendant. ORS 153.018.

Section 3. Completing the Uniform Citation Form

(include instructions and a copy of the form)

Section 4.1. After the Citation is Completed

1. Write the court’s address on the back of the Summons copy. As a courtesy to the defendant, point out the violation options section located on the back of the Summons.
2. Give the Summons copy to the defendant.
3. Explain to the defendant the violation for which the citation was issued, when and where to appear in court, the procedure for responding by mail, and the fine amount.
4. Return to the defendant any documents belonging to the defendant.

Section 4.2. Distribution of Copies

1. Complaint – To the Court
2. Abstract – To the Court??
3. Police Record – Must be retained by ODA (where?)
4. Officer Notes – Extra copy
5. Summons – To the defendant

Section 4.3. Records Retention

Retain citations for __ years and store under lock and key. (Check records retention period for ODA citations records.)

How will you make sure that the violations are included in a person's licensing/registration record?

Section 5. Correcting Citation Errors

Citations cannot contain errors. If an error is discovered in a citation, determine whether the citation was issued in error and needs to be dismissed or the citation needs to be reissued.

If the citation should not have been issued or was issued in error, refer to Section 6 for instructions on how to dismiss the citation.

Examples of errors on citations that must be corrected:

- Incorrect base fine amount;
- Issuing time or date;
- Citation for violation.

If the complaint copy of the citation has already been provided to the court:

1. Issue a new citation to correct the error(s).
2. Contact the court to advise that the previous citation was in error. Ask the court to dismiss the previous citation and file the amended complaint.
3. Write a letter to the driver, and enclose the corrected summons. See Section __ for a sample letter. Unless the court requests it, the corrected summons need not be sent by certified mail.
4. Send a copy of the letter to the company involved, if any, and to the court. Keep an office copy.

If the error is discovered before the complaint has been provided to the court:

1. Void the original citation and issue a new citation correcting the error(s).
2. Write a letter to the driver, and enclose the corrected Summons. See Section __ for a sample letter.
3. Send a copy of the letter to the company involved, if any, and the court. Keep an office copy.

Section 6. Dismissal of Citations

Prior to any citation being filed with the court, the Director or the Director's designee shall review the citation to ensure that:

- The citation contains all information required.
- The violation falls within the scope of authority for an authorized ODA employee to issue.
- The violation could reasonably be expected to be upheld by the court. This is an area that the Director or the Director's designee may need to discuss with the local District Attorney or court clerk prior to filing the citation.

Citations that do not meet the requirements listed above or that may not present ODA or the State of Oregon in a professional manner may be dismissed by the Director or the Director's designee.

Before any citation is dismissed by the Director or the Director's designee, it should be reviewed with the issuing employee, provided that the review will not cause an undo delay in notifying the defendant of the dismissal.

All enforcement actions may be evaluated by management and are subject to change based upon extenuating circumstances. If changes are made to the original enforcement document, the issuing employee will be informed of the changes and reasons for them.

Section 7. Base Fine Acceptance

No employee of ODA shall accept payment of a base fine from a defendant. If a defendant asks an ODA employee to accept payment of the base fine, sometimes called "bail," please politely decline and advise the defendant how the matter can be dealt with by mail or by a phone call to the court.

836.525¹

Enforcement of ORS 836.510 and 836.520

The law enforcing agencies authorized to enforce the laws of the state with respect to the rules of the road and the regulation of motor vehicles using the public highways of the state are likewise authorized to enforce ORS [836.510 \(Use of certain ocean beaches as landing fields\)](#) and [836.520 \(Action on petition\)](#). [Formerly [492.810 \[bad link\]](#)]