NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 734
DEPARTMENT OF TRANSPORTATION
HIGHWAY DIVISION

FILING CAPTION: Elimination of the Department of Transportation’s Oregon Weight Receipt & Tax Identifier and associated fee

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule’s substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

The 2019 Oregon Legislature passed House Bill 2592 which amends ORS 825.450. The amendment eliminates the Oregon Weight Receipt and Tax Identifier previously issued by the Department of Transportation along with the attendant $8.50 fee and replaces it with an electronic weight identifier. Temporary rules are already in place. These amendments are needed to implement this statutory change permanently.

This chapter 734 filing is part one of three. There are additional rules being amended in chapters 735 and 740. Taken together, the 10 rules being amended represent one rulemaking action to implement HB 2592.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:
None

FISCAL AND ECONOMIC IMPACT:

This rule amendment will have a positive impact on motor carriers who will no longer have to pay the $8.50 fee for an Oregon Weight Receipt and Tax Identifier.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s); (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).
(1) ODOT will experience a loss of revenue of $400,000 per year. The one-time cost of updating ODOT information systems to accommodate this change was approximately $200,000.

(2) Motor carriers, including those qualifying as small businesses, will experience an $8.50 savings. The rules, as amended, do not impose any new reporting or recordkeeping requirements or costs for equipment, supplies, labor or administration.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Fourteen groups representing small businesses received a copy of the proposed amendments and were asked to submit comments on fiscal and economic impact. No comments were received.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 734-072-0010

RULE SUMMARY: Amendment removes reference to tax registration and replaces it with the requirement that vehicles be enrolled in the weight-mile tax program.

CHANGES TO RULE:

734-072-0010
Self-Issuance Program for Variance Permits

(1) The self-issuance program for variance permits provides for three levels of authorization:

(a) Level I authorization allows a motor carrier to self-issue single trip permits following the telephone application process established in OAR 734-072-0015;

(b) Level II authorization allows a motor carrier providing service described in OAR 734-076-0115(4) to independently issue a "pre-authorized" self-issue single trip permit to a "specific" power unit without calling the Motor Carrier Transportation Division; and

(c) Level III authorization allows a motor carrier to independently self-issue single trip permits without contacting the Department.

(2) To qualify for Level I authorization, a motor carrier must make application to the Over-Dimension Permit Unit of the Motor Carrier Transportation Division located in Salem.

(3) To qualify for Level II authorization, a motor carrier must make application to the Over-Dimension Permit Unit of the Motor Carrier Transportation Division located in Salem and certify that it has read and understands Level II requirements.

(4) To qualify for Level III authorization, a motor carrier must make an application to the Over-Dimension Permit Unit of the Motor Carrier Transportation Division located in Salem, and the carrier must:

(a) Have an established Motor Carrier Account, register for Oregon Trucking Online and be approved to charge fees to the Motor Carrier Account;

(b) Successfully complete a training program administered by the Over-Dimension Permit Unit. All motor carrier representatives issuing permits under this rule must complete a training program;

(c) Have purchased a minimum of 125 single trip permits for oversize/overweight movements within the 12 months preceding the application for self-issuance of permits;

(d) Sign an agreement of responsibility for the permitted moves;

(e) Have no more than one late highway use tax report as required by ORS 825.139 or Road Use Assessment Fee (RUAF) mileage report as required by OAR 734-082-0003 in the 12 months preceding the application;

(f) Have maintained current vehicle and tax registration or enroll in the weight-mile tax program with the Department during the 12 months preceding application;

(g) Have no suspensions of Motor Carrier Transportation Division account during the 12 months preceding the application.
(h) Have no more than one late payment of fees due as required by ORS 818.270 in the 12 months preceding the application;

(i) Have no more than a fifteen percent underpayment finding on the most current weight-mile tax audit;

(j) Have no incidents involving damage or potential damage to any roadway, roadway device, or structure as a result of not complying with the provisions of an oversize/overweight permitted movement during the past 12 months preceding the application;

(k) Have a satisfactory safety rating with the United States Department of Transportation, Federal Motor Carrier Safety Administration; and

(L) File proof of general liability insurance with the Motor Carrier Transportation Division in the amount and manner described in OAR 734-072-0011.

(5) Level III approval to self-issue permits is conditionally approved for six months from the effective date of the initial application. Before expiration of the conditional certification, the Department may review the motor carrier’s compliance with the following:

(a) Qualifications for entry into Level III self-issue permits program, as described in section (4)(b) and (d) to (L) of this rule; and

(b) Self-issued permits are issued in conformance with the program.

(6) Motor carriers that comply with the requirements as described in section (5)(a) and (b) of this rule may be recertified for up to two years.

(7) Unless otherwise required by the Department, subsequent recertification will be required every two years. Before recertifying, the Department may review the motor carrier’s compliance with the requirements described in section (5)(a) and (b) of this rule.

(8) Level I and II authorized carriers may purchase blank permits for the purpose of self-issuance from the Motor Carrier Transportation Division, Over-Dimension Permit Unit office located in Salem. The fee for each blank permit form is the fee required under ORS 818.270, not to exceed $8.00.

(9) Level III authorized carriers may only self-issue permits through Oregon Trucking Online. The fee for each permit is the fee required under ORS 818.270, not to exceed $8.00.

(10) The Department may revoke the ability for the carrier to participate in the Self-Issue Permits Program after investigation, if there is reasonable grounds to believe the carrier violated one or more provisions of permit issued under this program.

(11) The Administrator of the Motor Carrier Transportation Division may waive the requirements described in Sections (4) to (7) of this rule.

Statutory/Other Authority: ORS 184.616, 184.619, 818.220, 823.011

Statutes/Other Implemented: ORS 818.200, 818.220
NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILING CAPTION: Elimination of the Department of Transportation’s Oregon Weight Receipt & Tax Identifier and associated fee

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2020 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule’s substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Lauri Kunze
Rules Coordinator

NEED FOR THE RULE(S):
The 2019 Oregon Legislature passed House Bill 2592 which amends ORS 825.450. The amendment eliminates the Oregon Weight Receipt and Tax Identifier previously issued by the Department of Transportation along with the attendant $8.50 fee and replaces it with an electronic weight identifier. Temporary rules are already in place. These amendments are needed to implement this statutory change permanently.

This chapter 735 filing is part two of three. There are additional rules being amended in chapters 734 and 740. Taken together, the 10 rules being amended represent one rulemaking action to implement HB 2592.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:
None

FISCAL AND ECONOMIC IMPACT:
This rule amendment will have a positive impact on motor carriers who will no longer have to pay the $8.50 fee for an Oregon Weight Receipt and Tax Identifier.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).
(1) ODOT will experience a loss of revenue of $400,000 per year. The one-time cost of updating ODOT information systems to accommodate this change was approximately $200,000.

(2) Motor carriers, including those qualifying as small businesses, will experience an $8.50 savings. The rules, as amended, do not impose any new reporting or recordkeeping requirements or costs for equipment, supplies, labor or administration.

**DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

Fourteen groups representing small businesses received a copy of the proposed amendments and were asked to submit comments on fiscal and economic impact. No comments were received.

**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES**

**AMEND: 735-176-0170**

**RULE SUMMARY:** Fuel sellers were not required to collect Oregon tax from commercial motor vehicles displaying the now defunct ODOT Motor Carrier Transportation Weight Receipt. This amendment removes reference to that receipt and replaces it with the mandate that vehicles must be enrolled in the Oregon weight-mile tax program or operating on a temporary pass.

**CHANGES TO RULE:**

735-176-0170
Collecting Tax on Sales or Use; Invoice Requirement

(1) Suppliers may collect tax on deliveries into the bulk tank of an end user at the customer’s request, provided the supplier is registered as a third party payer or is a licensed use fuel seller.

(a) Collection of tax at a customer’s request does not relieve the customer of the need to be licensed and report.

(b) Taxes collected by a third party payer must be reported and remitted to the Department, in accordance with OAR 735-176-0160, on a monthly basis in a format determined by the Department.

(c) The 4% credit available to use fuel sellers is not applicable to bulk fuel sales.

(2) Persons who sell fuel and place it into the fuel tank of motor vehicles, except for sellers at non-retail facilities as defined in ORS 319.520(11), shall collect the Oregon tax at the time of sale except for sales into:

(a) Vehicles displaying a valid ODOT Motor Carrier Transportation Division weight receipt or enrolled in Oregon’s weight-mile tax program or operating on a valid temporary pass;

(b) Vehicles displaying a valid use fuel vehicle emblem issued by the Department;

(c) Vehicles displaying a United States government license plate or the registration plate for state or local government owned vehicle issued registration pursuant to ORS 805.040 or a school bus or school activity vehicle issued registration pursuant to ORS 805.050;

(d) Farm tractors or other agricultural implements only incidentally operated on the highway as defined in ORS 319.520(10); and

(e) Cans, barrels, or containers other than the fuel supply tank of a motor vehicle.

(f) Vehicles displaying a valid Special Use Fuel Permit when purchasing natural gas or propane.

(3) A seller, as defined by ORS 319.520(13)(b), who sells fuel at non-retail facilities in Oregon shall collect the tax from a purchaser whose account is owned by the seller. The non-retail seller shall include the transactions in the taxable sales report unless the seller retains written certification signed by the purchaser on forms provided by the Department that the use of the fuel is tax deferred or exempt from the tax imposed under 319.530.

(a) "Certifies to the Seller" means the customer completes and signs the “Certification of Oregon Use Fuel Exempt Tax Status” form as provided by the Department. The seller is responsible for collecting and remitting the tax until the signed and dated exemption certificate is received from the customer. The form will contain:

(A) The name and address of the seller;
(B) The name, address, account number and signature of the purchaser;
(C) The reason that the use fuel tax should not be collected by the seller;
(D) A list of vehicles and equipment;
(E) A statement from the purchaser that for all use fuel purchased at Oregon non-retail facilities on account with
the seller, such fuel will be used only for purposes that are tax deferred or exempt from use fuel taxation under
ORS 319.510 through 319.880.
(b) A seller may not sell use fuel without the tax until a valid exemption certificate is completed, signed and
returned to the seller; and
(c) The customer provides the identifying information for each cardlock card to qualify the tax deferred status.
The card issuer shall list the card number assigned to the vehicle or equipment when qualified for ex-tax
purchases.
(4) Sellers, as defined by ORS 319.520(13), who do not operate non-retail facilities in Oregon but who own the
accounts of purchasers who purchase fuel at Oregon non-retail facilities, must be licensed with the Department
and are required to comply with all of the provisions of 319.510 through 319.880 and this rule.
(5) A seller, as defined by ORS 319.520(13), who sells at non-retail facilities in Oregon and does not collect the tax
from a purchaser whose account is not owned by the seller, must provide, upon request of the Department, the
purchaser's account number and the name and address of the non-retail seller who owns the account.
(6) Use fuel invoices shall contain:
(a) The seller's name and address;
(b) The purchaser's name and address;
(c) The full date of sale;
(d) The fuel type and number of gallons purchased;
(e) The amount of Oregon fuel tax included in the purchase price, or
(f) If the Oregon fuel tax is not included, the reason for the ex-tax sale:
(A) Motor Carrier Weight Receipt or Base jurisdiction and license plate number of vehicle enrolled in the weight-
mile tax program or temporary pass number.
(B) Use Fuel User Emblem number.
(C) US Government plate number, State or local government agency plate number.
(D) Description of the vehicle or equipment if unlicensed.
(E) Description of the container if not placed into a fuel supply tank of a vehicle or equipment.
(F) Special User Permit number when purchasing propane or natural gas.
Statutory/Other Authority: ORS 184.616, 184.619, 319.510 - 319.880
Statutes/Other Implemented: ORS 319.550 - 319.690
NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 740
DEPARTMENT OF TRANSPORTATION
MOTOR CARRIER TRANSPORTATION DIVISION

FILING CAPTION: Elimination of the Department of Transportation's Oregon Weight Receipt & Tax Identifier and associated fee

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2020 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Lauri Kunze
Rules Coordinator

NEED FOR THE RULE(S):
The 2019 Oregon Legislature passed House Bill 2592 which amends ORS 825.450. The amendment eliminates the Oregon Weight Receipt and Tax Identifier previously issued by the Department of Transportation along with the attendant $8.50 fee and replaces it with an electronic weight identifier. Temporary rules are already in place. These amendments are needed to implement this statutory change permanently.

This chapter 740 filing is part three of three. There are additional rules being amended in chapters 734 and 735. Taken together, the 10 rules being amended represent one rulemaking action to implement HB 2592.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:
None

FISCAL AND ECONOMIC IMPACT:
This rule amendment will have a positive impact on motor carriers who will no longer have to pay the $8.50 fee for an Oregon Weight Receipt and Tax Identifier.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).
(1) ODOT will experience a loss of revenue of $400,000 per year. The one-time cost of updating ODOT information systems to accommodate this change was approximately $200,000.

(2) Motor carriers, including those qualifying as small businesses, will experience an $8.50 savings. The rules, as amended, do not impose any new reporting or recordkeeping requirements or costs for equipment, supplies, labor or administration.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):
Fourteen groups representing small businesses received a copy of the proposed amendments and were asked to submit comments on fiscal and economic impact. No comments were received.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

AMEND: 740-010-0010

RULE SUMMARY: Amendment provides for an officer or employee of the Dept. of Transportation to represent the agency in a contested case involving the cancellation of vehicle enrollment in the weight-mile tax program.

CHANGES TO RULE:

740-010-0010
Agency Representation at Contested Case Hearings

(1) The Attorney General has given written consent as required by ORS 183.452 for an officer or employee of the Department of Transportation to appear on behalf of the agency in the following types of contested case hearings conducted by ODOT:

(a) Assessment of civil monetary penalties for violation(s) of ORS Chapter 818, 823, 825 and 826 or related rules;

(b) Suspension or cancellation of motor carrier operating authority;

(c) Cancellation of registration or tax identification plates issued to motor carriers or farmers vehicle enrollment in the weight-mile tax program;

(d) Surety bond increase;

(e) Tariff docket; and

(f) Reassessment cases involving weight-mile tax, commercial or prorate registration fees, road use assessment fees, or fuel taxes pursuant to ORS Chapter 818, 825 and 826 or related rules.

(2) The agency representative may present evidence, ask questions of witnesses and present factual arguments.

(3) The agency representative may not make legal argument on behalf of the agency.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case; and

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case; and

(B) Comparison of prior actions of the agency in handling similar situations; and

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence or the correctness of procedures being followed.
(4) When an agency officer or employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Statutory/Other Authority: ORS 184.616, 814.619, 823.011
Statutes/Other Implemented: ORS 183.450, 823.031, 823.033
RULE SUMMARY: Amendment clarifies that motor carriers now need only enroll vehicles for purposes of highway use taxes rather than register which previously involved obtaining an Oregon Weight Receipt Tax Identifier after paying an $8 fee.

CHANGES TO RULE:

740-020-0010
Scope Defined

(1) ORS 823.007(1) requires each employee of the department who performs a function concerning the economic regulation of motor carriers to file with the department an employee statement of pecuniary interests in motor carriers. Division 20 rules establish when a statement is required, defines terms associated with the statement and describes the circumstances under which disciplinary action may occur for failure to comply with ORS 823.007(1).

(2) For the purposes of ORS 823.007(2), "a function concerning economic regulation of motor carriers" means any action or transaction that affects or potentially affects the financial status of a motor carrier. Such functions include, but may not be limited to:

(a) Entry, including issuance of operating authority;
(b) Registration or apportioned registration of commercial motor vehicles;
(c) Registration or enrollment of commercial motor vehicles for highway use tax purposes;
(d) Receiving, collecting and accounting for money received from motor carriers;
(e) Enforcement of motor carrier regulations, including audit, inspection and investigation for compliance with tax, safety and other regulations;
(g) Issuance of variance permits under ORS Chapter 818;
(h) Weighing commercial vehicles and enforcing highway size and weight standards;
(i) Authorization of farm registration under ORS Chapter 805;
(j) Processing refunds.

Statutory/Other Authority: ORS 184.616, 184.619, 823.011, 825.232
Statutes/Other Implemented: ORS 805.300, 818.200, 823.007, 825.100, 825.202, 825.224
RULE SUMMARY: Amendment removes all reference to the previous Oregon Weight Receipt and Tax Identifier and now just requires carriers to be enrolled in the weight-mile tax program.

CHANGES TO RULE:

740-045-0010
Commercial Vehicle Operating Credentials ¶

(1) The Department will authorize operating credentials in one or more of the following forms for each self-propelled vehicle for which registration fees have been paid and which may be listed or added to a certificate or permit: ¶
   (a) Oregon commercial or apportioned vehicle registration plates, registration cards and stickers set forth in ORS Chapter 826; ¶
   (b) Oregon Weight Receipt and Tax Identifiers Enrollment of vehicles in the weight-mile tax program set forth in ORS Chapter 825; ¶
   (c) Temporary credentials issued pursuant to ORS Chapters 825 and 826, including temporary Oregon Weight Receipt and Tax Identifier enrollment documents to vehicles for which base jurisdiction license plate information has not been provided; and ¶
   (d) Identification plates and enrollment weight identifier for vehicles that are not subject to vehicle registration requirements, but are subject to weight-mile tax requirements. ¶

(2) Oregon commercial or apportioned vehicle registration plates, Oregon Weight Receipt and Tax Identifiers, or temporary credentials must be fastened to, carried in, or identified on the self-propelled vehicle for which it is issued as provided in these rules. This identification must be available for inspection by the Department, its representative or other authorized persons at all times. ¶

(3) Valid Oregon commercial or apportioned vehicle registration plates, Oregon Weight Receipt and Tax Identifiers, or temporary credentials must not be removed from the vehicle to which it is issued or transferred to any other vehicle under any circumstances not provided for in these rules. ¶

(4) An Oregon Weight Receipt and Tax Identifier vehicle’s enrollment in the weight-mile tax program shall be considered invalid if: ¶
   (a) The vehicle is for any reason retired from service or removed from the carrier’s list of vehicles under the permit or certificate upon which it is listed; ¶
   (b) The certificate or permit is for any reason suspended or canceled; ¶
   (c) The base jurisdiction license information for the vehicle changes; ¶
   (d) The information contained on the receipt is not legible or has been altered; or ¶
   (e) There has been a failure to provide insurance or bond as required by ORS Chapter 825. ¶

(5) Oregon commercial or apportioned vehicle registration plates shall be considered cancelled and must immediately be removed from the vehicle if: ¶
   (a) Registration fees are not paid; ¶
   (b) The vehicle is for any reason retired from service or removed from the carrier’s list of vehicles; ¶
   (c) There has been a failure to provide insurance or bond as required by ORS Chapters 825 and 826; or ¶
   (d) The vehicle is removed from a fleet by the end of the calendar year for which apportioned fees have been paid. Returned plates must be received in a Department office by January 10 of the year following the registration year. ¶

(6) An Oregon Weight Receipt and Tax Identifier will be considered cancelled if it is not valid at the time of renewal or is otherwise not timely renewed. ¶

(7) The fee described in ORS 825.450 for an Oregon Weight Receipt and Tax Identifier may be waived for a replacement Oregon Weight Receipt and Tax Identifier if the Department finds that: ¶
   (a) An original Oregon Weight Receipt and Tax Identifier was issued and the required fee was paid if vehicle’s enrollment in the weight-mile tax program shall be considered valid until cancelled or the current year of
(b) The replacement is necessary because the base state invalidated the original registration plate and issued new identification plates for vehicles subject to weight-mile tax requirements. A replacement registration plate not renewed.

Statutory/Other Authority: ORS 184.619, 823.011, 825.232, 825.450, 826.031
Statutes/Other Implemented: ORS 825.454, 825.470, 826.023
AMEND: 740-045-0025

RULE SUMMARY: Amendment removes reference to the previous Oregon Weight Receipt and Tax Identifier and clarifies that a vehicle's enrollment in the weight-mile tax program remains assigned to that vehicle upon sale as would an Oregon vehicle registration plate assigned to that vehicle.

CHANGES TO RULE:

740-045-0025

Vehicle Registration Plate and Oregon Weight Receipt and Tax Identifier - Transfer ¶

(1) In the case of lease or sale of a vehicle to which a valid Oregon Weight Receipt and Tax Identifier or enrolled in the weight-mile tax program or assigned an Oregon vehicle registration plate is assigned, the Department may allow such credentials either enrollment in the weight-mile tax program or an Oregon vehicle registration plate to remain assigned to the vehicle and be continued in use, provided the purchaser or lessee:

(a) Makes application, on forms approved by the Department, to continue the credentials in use under a certificate or permit issued to purchaser or lessee;

(b) Remits the fee specified in ORS 825.450 and 826.023 for registration plates; and

(c) Remits registration fees if the vehicle is registered under apportioned registration.

(2) The original certificate or permit holder shall be deemed, under section (1) of this rule, to be conducting all operations of the vehicle and shall remain responsible for all the operations of the vehicle until the credential has been transferred to the certificate or permit of the purchaser or lessee.

Statutory/Other Authority: ORS 823.011, 825.450, 826.023

Statutes/Other Implemented: ORS 825.450, 826.035
AMEND: 740-045-0120

RULE SUMMARY: Amendment removes reference to the former Oregon Weight Receipt and Tax identifier and clarifies that a leased vehicle over 26,000 pounds must be enrolled in the weight-mile tax program unless the lease runs for less than ten days in which case a temporary pass will suffice for registration purposes.

CHANGES TO RULE:

740-045-0120
Registration and Identification ¶

(1) No vehicle leased by a motor carrier shall be used in Oregon intrastate commerce unless the lease is presented to the Department and the vehicle is registered for use under the lessee’s operating authority. ¶

(2) Except as provided in section (3) of this rule relating to short-term leases, no vehicle with a combined weight in excess of 26,000 pounds may not operate under lease in Oregon intrastate commerce, unless the lessee has obtained a valid Oregon Weight Receipt and Tax Identifier for the vehicle enrolled the vehicle in the weight-mile tax program. ¶

(3) If the vehicle with a combined weight in excess of 26,000 pounds is to be operated under lease for less than 10 days, the carrier must apply for and receive a temporary pass in lieu of an Oregon Weight Receipt and Tax Identifier, enrolling the vehicle in the weight-mile tax program, and pay such fees as are required by the Department, and the lessee must agree to pay highway use taxes for extreme miles of travel in Oregon, both loaded and empty, on a declared combined weight basis. ¶

(4) Vehicles operated under lease shall at all times be externally identified with the lessee's name, in the manner prescribed by OAR 740-100-0010. ¶

(5) A copy of the lease must be carried on the vehicle during operation under lease and must be maintained at the carrier's principal place of business for a period of three years after the termination of the lease.

Statutory/Other Authority: ORS 184.619, 823.011, 825.232
Statutes/Other Implemented: ORS 825.100, 825.104, 825.210
AMEND: 740-045-0150

RULE SUMMARY: Amendment replaces reference to Mileage Fees with Highway Use Taxes for vehicles enrolled in the weight-mile tax program.

CHANGE TO RULE:

740-045-0150
Mileage Fees/Highway Use Taxes on Leased Equipment ¶

(1) The lessee of vehicles being operated under OAR 740-045-0110 to 740-045-0130 is responsible for highway use taxes due for all operations of those vehicles in Oregon during the term of the lease.¶
(2) The lessee may be relieved of responsibility for highway use taxes on vehicles with valid Oregon Weight Receipt and Tax Identifiers being enrolled in the weight-mile tax program only following written notification to the Department that the lease has been terminated.¶
(3) The lessee may enter into fee pay agreements authorizing the owner or lessor to report and pay highway use taxes for vehicles carrying Oregon Weight Receipt and Tax Identifiers issued weight-mile tax program in the lessee or lessor’s name provided:¶
(a) The fee pay agreement is signed by both the lessee and the owner or lessor; and¶
(b) The agreement is filed with and approved by the Department. Such fee pay agreements shall not relieve the lessee of its obligation for payment of highway use taxes accruing during the term of the lease and prior to written notification of the termination of the lease.
Statutory/Other Authority: ORS 184.619, 823.011, 825.230
Statutes/Other Implemented: ORS 825.100, 825.104, 825.210
AMEND: 740-055-0110

RULE SUMMARY: Amendment removes requirement that fuel receipts disclose the former Oregon Weight Receipt Tax Identifier number and replaces it with direction that such receipts must now include the base jurisdiction and license plate numbers of vehicles enrolled in the weight-mile program.

CHANGES TO RULE:

740-055-0110
Fuel Purchase Records and Refunds

(1) All motor carriers must obtain an invoice covering every purchase of motor vehicle fuel and preserve the same for a period of three (3) years subject to inspection by the Department or its representatives at all reasonable times. Fuel Card statements reflecting purchases from retail stations must clearly separate and identify retail and cardlock purchases. Purchases from retail stations require an invoice or receipt from the original seller to be accepted.

(2) Such invoice or statement must disclose:
   (a) Date and location of purchase;
   (b) From whom purchased;
   (c) Kind of fuel and number of gallons purchased;
   (d) Oregon Weight Receipt and Tax Identifier number, base jurisdiction, license plate number of vehicle enrolled in the weight-mile tax program, temporary pass number, or Special Transportation Permit of the vehicle if fuel is delivered directly into such vehicle; and
   (e) Amount of fuel tax paid.

(3) Motor carriers purchasing fuel in Oregon may claim a credit for Oregon state fuel tax paid at the pump. Carriers shall deduct the amount of fuel tax paid from the highway use tax due on the highway use tax report for the period in which the fuel was purchased. Motor carriers taking a deduction on the highway use tax report for fuel tax paid shall attach a copy of all fuel invoices for which credit is claimed. Carriers who purchase fuel in bulk shall attach to the highway use tax report for the period in which the fuel was dispensed into a motor vehicle copies of invoices from fuel suppliers indicating Oregon state fuel tax paid and fueling records showing fuel dispensed for each motor vehicle.

(4) Motor carriers may submit a written request for refund of Oregon state fuel tax paid up to three years after purchase. A written request for refund may be granted for any Oregon fuel tax paid but not deducted from the highway use tax report for the period in which the fuel was purchased. Motor carriers requesting refund must attach copies of all invoices. No such refund will be issued until an audit has been performed.

Statutory/Other Authority: ORS 184.616, 184.619, 823.011
Statutes/Other Implemented: ORS 825.476, 825.480, 825.484, 825.486
AMEND: 740-300-0040

RULE SUMMARY: Amendment removes penalties for not possessing the previous Oregon Weight Receipt and Tax Identifier. Penalties will now apply when vehicles are not enrolled in the Oregon weight-mile tax program.

CHANGES TO RULE:

740-300-0040
Violation of ORS Chapter 825 and 826 Not Otherwise Provided For - General Penalties

(1) Except as otherwise ordered by the Department in a particular case, any person who violates any provision of ORS Chapter 825 or 826, or any rule or order of the Department related thereto which has not otherwise been provided for in the Department's rules, shall be subject to the penalties in sections (3), (4) and (5) of this rule.

(2) As used in this rule, "similar violation" means a violation which is similar to the violation alleged in the notice of proposed civil penalty. For the purpose of determining similarity under this rule, violations shall be classified as those relating to:

(a) Registration of vehicles;
(b) Oregon Weight Receipt and Tax Identifiers-weight-mile tax credentials, temporary pass, enrollment in Oregon's weight-mile tax program or other authorized identification devices;
(c) Economic regulation of transportation of household goods, except rates;
(d) Rates for the transportation of household goods; or
(e) Violations of a statute or rule not included in subsections (a) through (d) of this section.

(3) Level I finding of violation(s) apply if no penalty order, cease and desist order or finding of violation(s) has been entered against the defendant within the preceding five years for similar violations of statutes and rules described in this section and no other notice of proposed civil penalty or notice of proposed finding of violation(s) is pending against the defendant for similar violations. If such violations have been found within the last five years, or a notice of proposed penalty or notice of proposed finding of violation(s) is pending against the defendant for violations described in this rule, penalties will be assessed at Level II. Upon a finding of violation(s) at Level I, the Department will issue an order finding such violation(s).

(4) Level II penalties, except as provided in section (5) of this rule, apply to a defendant who does not meet the criteria in section (3) of this rule. The penalties shall include:

(a) $100 for each new violation committed; and
(b) Suspension of operating authority for five working days.

(5) Level III penalties apply to a defendant who has been penalized for similar violations at Level II within 12 months preceding the violation. The penalties shall include:

(a) $100 for each new violation committed;
(b) Imposition of penalties suspended under prior orders for similar violations, unless suspensions have become permanent; and
(c) Suspension of operating authority for five working days, or cancellation of authority if warranted by the circumstances of the particular case, for violation of ORS Chapter 825 or 826.

(6) Unregistered Vehicles: For the purpose of assessing penalties for violations of ORS 826.031, a defendant will be deemed to have committed one violation for each unregistered vehicle operated in a given month.

(7) Vehicles Operated Without Oregon Weight Receipt and Tax Identifier Enrollment in the Weight-mile Tax Program or other Authorized Identification: For the purpose of assessing penalties for violations of ORS 825.450 or 825.470, a defendant will be deemed to have committed:

(a) One violation per day for each vehicle operated without an Oregon Weight Receipt and Tax Identifier or first enrolling in the weight-mile tax program or obtaining a valid temporary pass; or
(b) One violation per vehicle for each vehicle operated with an expired (non-renewed) Oregon Weight Receipt and Tax Identifier out valid enrollment in the weight-mile tax program.

Statutory/Other Authority: ORS 184.616, 184.619, 823.011, 825.232