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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 735  
DEPARTMENT OF TRANSPORTATION  
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

**FILED**

07/27/2022 7:58 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: HB 3055 (2021) Commercial Motor Vehicle Used In Human Trafficking and Requests for Administrative Review

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/21/2022 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)

HB 3055 (2021) amended ORS 809.520 to align with 49 CFR 383.51 and requires DMV to define "severe forms of trafficking in persons." To implement the new law, DMV must adopt an administrative rule to define the term "severe forms of trafficking in persons," define other terms associated with such trafficking in persons, update statutory references, and clarify the process to request an administrative review and the documentation needed.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

- Enrolled HB 3055 (2021) - <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3055>;
- 49 CFR 383.51 - <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-383>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

DMV's rule is intended to have a positive impact on racial equity because, in combination with federal regulations and state law, DMV is adopting the definition of severe forms of trafficking in persons and setting out specific crimes the conviction for which will result in a permanent suspension of a CDL. This rule, while focused on the trafficker, is part of the comprehensive approach to prosecution of, protection against and prevention of a practice that is founded in systemic racism.

FISCAL AND ECONOMIC IMPACT:

None

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) Since DMV defined the terms and provided a framework around severe forms of human trafficking while operating a CMV, a person may be impacted because they fall into our definition instead of outside our definition. DMV is unable to quantify this impact to the public due to the number of CDLs permanently suspended as a result of the proposed rule.

(2) Since DMV defined the terms and provided a framework around severe forms of human trafficking while operating a CMV, a small business may be impacted because their driver falls within our definition instead of outside our definition. The result would be the small business may lose a driver. DMV is unable to quantify how often this will impact small business due to the number of CDLs permanently suspended as a result of the proposed rule.

(2)(a) No small businesses are subject to the rule, but all small businesses that operate CMVs may be impacted if a driver of the small business is convicted for engaging in a severe form of human trafficking while in a CMV.

(2)(b) and (c) None

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

DMV sent draft rules to 14 organizations representing small businesses. No responses were received.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rulemaking is a result of the Legislature's passage of HB 3055 (2021) and the process DMV needs a person to follow in order to request an administrative review.

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RULES PROPOSED:

735-001-0050, 735-063-0380, 735-063-0390

AMEND: 735-001-0050

RULE SUMMARY: DMV proposes to amend this rule to provide information on how a person may request an administrative review and the information that is needed to complete the review.

CHANGES TO RULE:

735-001-0050

Administrative Review ¶¶

(1) A person who is entitled to an administrative review by DMV under ORS chapter 809 or section (3) of this rule may request an administrative review. An administrative review may be requested by:¶¶

(a) Completing a request on-line at <https://DMV2U.oregon.gov>; ¶¶

(b) Faxing a request to (503) 945-5497; or ¶¶

(c) Mailing a request to DMV, Administrative Review, 1905 Lana Ave. NE, Salem, Oregon 97314. ¶¶

(2) A request for an administrative review must include sufficient information for DMV to identify the person. ¶¶

(3) A request for an administrative review may include the following information:¶¶

(a) The person's full name, date of birth, mailing address, and customer number; and¶¶

(b) Any evidence that shows the person is not subject to the suspension, cancellation, or revocation that is the subject of the administrative review. ¶¶

(4) In addition to those circumstances specified in ORS 809.140 and 809.440, Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will provide an administrative review of a suspension, revocation, or cancellation action for:¶¶

(4a) Failure to install or maintain installation of an ignition interlock device under ORS 813.602;¶¶

(4b) Failure to complete and pass a security threat assessment required for a hazardous materials endorsement from the federal Transportation Security Administration (TSA) or being assessed as a security threat by TSA under ORS 807.173;¶¶

(4c) Failure to submit proof of medical qualification to operate a commercial motor vehicle under ORS

807.100(2);¶

(4d) Failure to pay a judgment under ORS 809.415(1);¶

(5e) A lapse in making future financial responsibility filings under ORS 809.415(3)(c) or 807.240(3)(e);¶

(6f) Notification from the superintendent of a hospital under ORS 807.700;¶

(7g) A request by a school superintendent or a school district board under ORS 339.254;¶

(8h) Notice received by DMV that a vehicle is totaled, wrecked, dismantled, disassembled or substantially altered under ORS 819.030.¶

(9i) Cancellation of commercial driving privileges due to failure to complete entry-level driver training as required by rules adopted pursuant to ~~Oregon Laws 2021, Chapter 630, section 103~~ RS 807.085.

Statutory/Other Authority: ORS 184.619, 802.010, 809.440

Statutes/Other Implemented: ORS 809.440

AMEND: 735-063-0380

RULE SUMMARY: DMV proposes to amend this rule to update statutory references.

CHANGES TO RULE:

735-063-0380

Reinstatement of CDL Disqualification ¶¶

(1) To be eligible to apply under ORS 809.520(34) for reinstatement of a lifetime suspension of commercial driving privileges imposed by DMV under ORS 809.520(23), the person must:¶

(a) Meet all requirements for issuance of a CDL or CLP;¶

(b) Provide any information requested sufficient for DMV to find there is good cause for reinstatement; and¶

(c) Successfully complete rehabilitation as approved by DMV and provide proof of such completion.¶

(32) In determining whether good cause for reinstatement has been shown, DMV will consider the person's driving record for the 10 years preceding the date of application for reinstatement. DMV will not reinstate commercial driving privileges if any of the following appear on the person's driving record in this state or in any other jurisdiction:¶

(a) A conviction for an offense involving the operation of a CMV.¶

(b) A conviction for any offense listed in ORS 809.510.¶

(c) A conviction for the offense described in ORS 809.520(1).¶

(d) A conviction for any offenses listed in OAR 735-063-02360.¶

(e) A conviction for reckless endangering a highway worker in any vehicle.¶

(f) A suspension of driving privileges under the Driver Improvement Program or a similar program in another jurisdiction appears on the person's driving record within the three years preceding the date of application for reinstatement.¶

(43) The following courses are approved by DMV as meeting the rehabilitation requirement:¶

(a) National Safety Council, DDC Attitudinal Dynamics of Driving; and¶

(b) National Safety Council, DDC Professional Truck Drivers.¶

(54) If a required course listed in section (43) of this rule is not available in Oregon, DMV will accept proof the person has successfully completed the on-line version of the course. If a required course is not available in Oregon and there is no on-line version available, DMV may accept proof of successful completion of an equivalent rehabilitation course or program.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 809.520

Statutes/Other Implemented: ORS 809.520

ADOPT: 735-063-0390

RULE SUMMARY: DMV proposes to adopt the rule to define the term "severe forms of trafficking in persons" and other terms. The rule also lays out when DMV will permanently suspend a person's commercial driving privileges for the lifetime of the person under ORS 809.520(2) and confirms that a person who receives a lifetime suspension under ORS 809.520(2) has the opportunity to request an administrative review.

CHANGES TO RULE:

735-063-0390

CMV Used In Human Trafficking

(1) For the purposes of ORS 809.520(2) and this rule: ¶

(a) DMV adopts the following defined terms in effect as of January 1, 2021:¶

(A) 22 USC 7102(1) - Abuse or threatened abuse of law or legal process;¶

(B) 22 USC 7102(3) - Coercion;¶

(C) 22 USC 7102(4) - Commercial sex act;¶

(D) 22 USC 7102(7) - Debt bondage;¶

(E) 22 USC 7102(8) - Involuntary servitude; and¶

(F) 22 USC 7102(12) - Sex trafficking.¶

(b) "Severe forms of trafficking in persons" has the meaning provided in 22 USC 7102(11) in effect as of January 1, 2021, and includes, but is not limited to, the following convictions:¶

(A) ORS 163.266 (Trafficking in persons);¶

(B) ORS 163.413 (Purchasing sex from a minor);¶

(C) ORS 167.008 (Commercial sexual solicitation);¶

(D) ORS 167.017 (Compelling prostitution);¶

(E) ORS 163.263 (Subjecting another person to involuntary servitude in the second degree);¶

(F) ORS 163.264 (Subjecting another person to involuntary servitude in the first degree);¶

(G) 18 U.S.C. §1584(a) (Involuntary servitude);¶

(H) 18 U.S.C. §1589(a) (Forced labor);¶

(I) 18 U.S.C. §1591 (Sex trafficking of children or by force, fraud, or coercion);¶

(J) 18 U.S.C. §2423(a) (Transportation of minor - Transportation With Intent To Engage in Criminal Sexual Activity); and¶

(K) 18 U.S.C. §2423(b) (Transportation of minor - Travel With Intent To Engage in Illicit Sexual Conduct). (2) DMV will 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 in which a commercial motor vehicle was used and that involved an act or practice of severe forms of trafficking in persons. ¶

(3) DMV will permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a conviction with a U11 ACD code, using a CMV in the commission of severe forms of trafficking in persons.¶

(4) A request for an administrative review of a permanent suspension of a commercial driving privileges under this rule must comply with the requirements established under ORS 809.440 and OAR 735-001-0050.

Statutory/Other Authority: ORS 184.619, 802.010, 809.520

Statutes/Other Implemented: 809.440, 809.520, 809.545, 49 CFR 383.51