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

CHAPTER 740  
DEPARTMENT OF TRANSPORTATION  
MOTOR CARRIER TRANSPORTATION DIVISION

**FILED**

07/26/2022 3:13 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Clarification of Definitions, Fee Process, and Curriculum Relevant to the Motor Carrier Education Program

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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Filed By:  
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NEED FOR THE RULE(S)

All Oregon domiciled motor carriers must participate in an education program mandated by ORS 825.402. These amendments are to clarify who must attend the training, what fees are involved, and the curriculum taught during the training.

740-035-0005

Amendment adds a definition of "domiciled" to clarify that the term applies to motor carriers having established places of business in Oregon. Also added is a definition of a "third party agent" for the Oregon Department of Transportation

740-035-0200

Amended to mirror the definition of "domiciled" in the context of the Motor Carrier Education Program and clarify that the person attending the training must have substantial control over the motor carrier's operations. Further, the amendment explains what fees are involved. Finally, it establishes that audits of the education program will occur.

740-035-0260

This rule bullet-points the curriculum to be taught in the Motor Carrier Education Program. It is amended to remove two subjects (Insurance Filings & Appropriate Contact for Assistance) from its listing that will not be taught.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

CCD Fiscal Analysis for HB3055

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

The purpose of the Motor Carrier Education Program is to provide all Oregon carriers with the knowledge necessary to

become successfully compliant with applicable motor carrier regulations regarding safety, registration, tax, size and weight, over-dimensional permits, and authority suspension. The training promotes consistency and fairness in that every participant receives the same instruction providing knowledge crucial to achieving compliance and avoiding future enforcement actions.

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#### FISCAL AND ECONOMIC IMPACT:

With these amendments in place, the cost of the Motor Carrier Education Program to ODOT's Commerce and Compliance Division is expected to be \$10,000 for implementation and \$20,000 annually to maintain. Costs to the motor carrier officials attending the training will be \$40 for the ODOT administration fee and whatever fee is charged by the third party agent conducting the training.

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#### 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) The cost to ODOT's Commerce and Compliance Division is expected to be \$10,000 for implementation and \$20,000 annually to maintain.

(2) For each carrier official taking the course: Forty (\$40) dollars in ODOT administrative charges and whatever fee the third party agent charges for the training.

(2)(a) The precise number is unknown. The Commerce and Compliance Division does not ask motor carriers how many people they employ when those companies register. The amendments apply to any carrier large or small who will have an official taking the training.

(2)(b) Minimal to none. Motor Carriers will simply need to maintain the course Certificate issued at the completion of the training.

(2)(c) Minimal to none.

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

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

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

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#### RULES PROPOSED:

740-035-0005, 740-035-0200, 740-035-0260

AMEND: 740-035-0005

RULE SUMMARY: Definitions relevant to motor carrier certificates, licenses and documents. Added definitions of domicile and third party agent.

#### CHANGES TO RULE:

740-035-0005

Definitions ¶¶

For purposes of OAR chapter 740, the following definitions apply:¶¶

(1) A motor carrier is "domiciled" in Oregon if the motor carrier has an established place of business in Oregon as specified on an application for authority.¶¶

(2) An "Established Account" results when the department has received and approved an application for a motor carrier account or farm certification containing sufficient information to identify the legal entity of the motor carrier.¶

(23) "Legal Entity" means an association, corporation, partnership, proprietorship, trust, individual or other entity that has a separate existence for tax or other purposes of accountability under law. A legal entity has standing to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions.¶

(34) A "Temporary Account" results when the department has issued an account number for the purpose of issuing temporary passes but has not received or approved an application for a motor carrier account or a farm certification.¶

(5) A "Third Party Agent" is any person or entity authorized by the Department to implement or conduct the Motor Carrier Education Program training as prescribed by the Department.

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

Statutes/Other Implemented: ORS 823.027, ORS 825.354

AMEND: 740-035-0200

RULE SUMMARY: Rule lays out who must attend the motor carrier education program and the fees involved.

CHANGES TO RULE:

740-035-0200

Motor Carrier Education Program ¶

The Motor Carrier Education Program provides motor carriers with basic information required to conduct motor carrier operations in Oregon. The Department administers the program and third party agents provide the education. In addition to the provisions of ORS 825.402, the following apply to the Motor Carrier Education Program:¶

~~(1) As used in ORS 825.402, motor carrier is "Ddomiciled" in Oregon" means a if the motor carrier has an established its principal place of business, as indicat in Oregon as specified on the A an application for Motor Carrier Permit (Form 735-9075, revised 6/02), in Oregon; and authority.¶~~

(2) Motor Carriers applying for authority for the first time or as required by ORS 825.402(3) shall pay a non-refundable \$40 ODOT Administrative fee to defray the cost of the program. ¶

(3) In addition to the ODOT nonrefundable administrative fee, a motor carrier shall be responsible for payment of fees assessed by the third party agent appointed by the department to provide the Motor Carrier Education Program training. ¶

~~(24) As used in ORS 825.402 and OAR 740-035-0200 through 740-035-0260, "Participate in the program" means that a person having a substantial interest or control, directly or indirectly, in the motor carrier operations has reviewed the basic information outlining the requirements to conduct motor carrier operations in Oregon or over the operations conducted or to be conducted under the certificate or permit issued to the motor carrier must participate in the Motor Carrier Education Program. Under these rules, a motor carrier is not required to participate in the Motor Carrier Education Program more than one time except when motor carriers are required to participate additional times under ORS 825.402 (3).¶~~

(5) The Department will conduct unscheduled training audits of third party agents to ensure compliance with the education curriculum and provisions of any contract or agreement entered into with the department.

Statutory/Other Authority: ORS 823.011, 825.402

Statutes/Other Implemented: ORS 825.400, 825.402

AMEND: 740-035-0260

RULE SUMMARY: Topics taught at Motor Carrier Education training.

CHANGES TO RULE:

740-035-0260

Motor Carrier Education Curriculum ¶¶

The Department will provide motor carriers with the information needed to meet the participation requirements.

The Department will provide educational information including, but not limited to:¶¶

- (1) Driver Qualifications;¶¶
- (2) Vehicle Inspection and Maintenance Requirements;¶¶
- (3) Motor Carrier Safety Regulations;¶¶
- (4) Weight Mile Tax/Reporting Requirements;¶¶
- (5) ~~Insurance Filings;¶¶~~
- (6) Authority Suspensions;¶¶
- (7) ~~Permissible Size and Weight Limits; and,¶¶~~
- (8) ~~Over-dimensional Permits and How to Obtain Them; and¶¶~~
- (9) ~~Appropriate Agency Contact for Assistance.~~

Statutory/Other Authority: ~~ORS 183, 469, 823, 824, 825~~823.011, 825.400

Statutes/Other Implemented: ORS 825.400