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SHEMIA FAGAN
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CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

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CHAPTER 740
DEPARTMENT OF TRANSPORTATION
MOTOR CARRIER TRANSPORTATION DIVISION

FILING CAPTION: Jumping Out-of-Service Order Penalties for Employers of Commercial Motor Vehicle Operators

EFFECTIVE DATE: 03/09/2023

AGENCY APPROVED DATE: 03/09/2023

CONTACT: Howard Russell

503-373-1979

howard.h.russell@odot.oregon.gov

CCD Safety Compliance

3930 Fairview Industrial Drive SE

Salem, OR 97301

Filed By:

Lauri Kunze

Rules Coordinator

RULES:

740-300-0120, 740-300-0130

AMEND: 740-300-0120

NOTICE FILED DATE: 01/30/2023

RULE SUMMARY: This amendment describes penalties employers of commercial motor vehicle operators are subject to should they allow, permit, authorize or require their operators to violate Out-of-Service orders.

CHANGES TO RULE:

740-300-0120

Violations Specified in ~~ORS 825.955 and ORS 825.960~~, Relating to ~~Out-Of-Service Notices and Driver Equipment Compliance Check Form Orders or Notices~~ - Penalties ¶

~~Except as otherwise ordered by the Department in a particular case, a~~ (1) Any person who commits the violations specified in ~~ORS 825.955 or 825.960~~, related to ~~Out-Of-Service notices and driver equipment compliance check form orders or notices~~, in addition to any penalties otherwise provided by law, shall be subject to the following penalties: ¶

~~(1a) For a defendant who has no previous history of violations, upon a finding of violation(s), the Department will issue an order finding such violations. \$10,000 for each violation committed; and ¶~~

~~(2b) For a motor carrier who, within the 12 months preceding the violation, has been found by order of the Department in violation of such statute: ¶~~

~~(a) \$1,000 for each new violation specified in ORS 825.955 and \$10,000 for each new violation specified in 825.960 committed; and ¶~~

~~(b) SORS 825.960, a suspension of operating authority for five working days. ¶~~

~~(32) For purposes of determining the applicable penalty level, a corporate carrier will not be held responsible for orders entered against it while under a different controlling interest. There shall be no mitigation for a penalty imposed under ORS 825.960 and this OAR 740-300-0120 relating to violation of provisions of an Out-Of-Service order or notice.~~

Statutory/Other Authority: ORS 823.011, 825.232

Statutes/Other Implemented: ORS 825.955~~137~~, 825.960

REPEAL: 740-300-0130

NOTICE FILED DATE: 01/30/2023

RULE SUMMARY: This rule is repealed because it is no longer needed. No mitigation is available in cases where a motor carrier has been found in violation of an out-of-service order or notice.

CHANGES TO RULE:

~~740-300-0130~~

~~Violations Specified in ORS 825.955 and ORS 825.960 - Mitigation~~

~~(1) A petitioner who has admitted the allegations of a notice of proposed civil penalty for penalties imposed under OAR 740-300-0120(2), or who has requested mitigation under ORS 825.955(4)(b) within 15 days of service of a penalty order, and who has taken corrective action to remedy the violation(s) and otherwise is in substantial compliance with the laws and rules of the Department may be eligible for mitigation of penalties. The Department may suspend the five-day suspension of operating authority for a penalty imposed under OAR 740-300-0120, relating to failure to return a Driver Equipment Compliance Check form.¶~~

~~(2) There shall be no mitigation for a penalty imposed under OAR 740-300-0120 relating to violation of provisions of an Out-Of-Service notice or relating to false certification.~~

~~Statutory/Other Authority: ORS 823.011, 825.232~~

~~Statutes/Other Implemented: ORS 825.955~~