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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

08/29/2023 2:07 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Adding Restrictions and Continued Qualifications for Driving Privileges

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2023 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)

DMV's mission statement includes "promote driver safety." One of the ways DMV promotes driver safety is by ensuring that every person issued driving privileges is mentally and physically capable of safely operating a motor vehicle, as described in ORS 807.090. This usually occurs during initial issuance of a driving privilege when an applicant takes a vision screening, knowledge and drive test. There are other occasions when DMV staff observe driver actions that indicate a potential safety risk, requiring DMV to confirm that the person is mentally and/or physically capable of operating a motor vehicle. When this occurs, DMV requires the person to take one or more of the following: vision screening, knowledge or drive test, ("tests" or "testing") to ensure the person is capable of operating a motor vehicle safely. The tests are offered free of charge.

DMV proposes to amend OAR 735-062-0087 to clarify that DMV may require a person to complete a drive test when DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle in order for DMV to determine if a restriction of the person's driver license is required. If the applicant passes the drive test without the use of a driving aid, DMV will not place a restriction on the person's driving privilege.

DMV proposes to amend OAR 735-062-0090 to clarify that DMV may require a person to complete testing when DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle in order to determine if a restriction is needed in order for the applicant to safely operate a motor vehicle. If the applicant passes the drive test without the use of a driving aid, DMV will not place a J restriction on the person's driving privilege.

DMV proposes to amend OAR 735-062-0110 to clarify that DMV may require a person applying for a replacement driver license or driver permit to complete testing when DMV observes a physical or mental condition or impairment

not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle in order to determine if a restriction is needed in order for the applicant to safely operate a motor vehicle. If the applicant passes the drive test without the use of a driving aid, DMV will not place a J restriction on the person's driving privilege.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

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

This rulemaking only requires an applicant to submit to tests of the applicant's ability to safely operate a motor vehicle by performing a drive test, vision screening, or knowledge test when DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle. DMV does not believe this will have an effect on racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

See statements below.

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) Public – An applicant who exhibits a physical impairment or mental condition that may negatively impact the person's ability to safely operate a motor vehicle will need to complete one or more of the following: vision screening, knowledge or drive test, to determine if they can retain their driving privileges without restriction or if the applicant will need restriction. These tests will take time and may require the applicant to miss work. The applicant is not charged for the tests. If the applicant no longer qualifies for the driving privilege, the applicant may experience consequences as a result. DMV is unable to quantify the effects because of the differences in people's lives.

DMV – DMV staff will need to assist the customer during the vision screening and drive tests and will have to set up a knowledge examination. These costs will be absorbed into DMV's budget.

(2)(a), (b) and (c) None

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.

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

DMV is clarifying current practice, which ensures applicants can safely operate a motor vehicle.

RULES PROPOSED:

735-062-0087, 735-062-0090, 735-062-0110

AMEND: 735-062-0087

RULE SUMMARY: DMV proposes to amend this rule to clarify that DMV may require a person to complete a drive test when DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively

impact the person's ability to safely operate a motor vehicle in order for DMV to determine if a restriction of the person's driver license is required.

CHANGES TO RULE:

735-062-0087

Restrictions on Driving Privileges ¶¶

ORS 807.120 authorizes DMV to restrict driving privileges upon determining that there is good cause for a restriction. DMV finds good cause for a restriction of Class C non-commercial driving privileges in the following circumstances:¶¶

(1) A Restriction - Auto Trans non-CMV - When a person is unable to operate the foot controls or shift lever on a standard transmission equipped vehicle due to a physical impairment.¶¶

(2) B Restriction - Corrective Lenses - When a person uses corrective lenses to meet the vision standards as set forth in OAR 735-062-0050.¶¶

(3) F Restriction - Outside Mirror - When a person has no usable vision in the person's left eye.¶¶

(4) G Restriction - Daylight Driving Only - When a person's visual acuity is between 20/40 and 20/70 or if the person's vision specialist indicates on a Certificate of Vision form that the person should be restricted to daylight hours only.¶¶

(5) J Restriction - Variable - When at least one of the following driving privilege restrictions applies to a person:¶¶

(a) When a person is restricted to specific routes, times and purposes of driving under a special permit. The special permit includes a student or emergency permit that allows driving for specific purposes to a limited number of eligible applicants.¶¶

(b) When a person is restricted to specific routes under a limited route restriction. A person's driver license may be restricted to specific limited routes when the person has demonstrated that the person can safely operate a motor vehicle on specific routes but is unable to demonstrate that the person is qualified for an unrestricted license.¶¶

(c) When a person is authorized by DMV to receive special instruction only. DMV may authorize a restricted privilege to take driving lessons under certain circumstances. A person may not drive a motor vehicle unless the person is driving with an instructor approved by DMV.¶¶

(d) When a person's motorcycle driving privileges are restricted to a three-wheeled motorcycle or a motorcycle with a sidecar. DMV will restrict the driving privileges granted under a motorcycle endorsement if the person applies for a restricted motorcycle endorsement and has successfully completed the motorcycle knowledge test as required in OAR 735-062-0040.¶¶

(e) When DMV authorizes the person to operate ~~only~~ a motor vehicle only when equipped with specific equipment that does not have its own restriction code.¶¶

(6) When DMV observes a physical or mental condition of impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle, DMV must determine if a J restriction, as described in Section (5)(e) of this rule, is required. To determine if a J restriction is required, the person must complete a drive test in which the drive examiner is evaluating only the person's ability to operate a motor vehicle safely.

Statutory/Other Authority: ORS 184.619, 802.010, 807.120

Statutes/Other Implemented: ORS 807.120

AMEND: 735-062-0090

RULE SUMMARY: DMV proposes to amend this rule to clarify that DMV may require a person to complete testing when DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle in order to determine if a restriction is needed in order for the applicant to safely operate a motor vehicle.

CHANGES TO RULE:

735-062-0090

Renewal Driver Licenses and Identification Cards ¶¶

(1) DMV will renew the driver license of an applicant who satisfies the requirements set forth in ORS 807.150.¶

(2) DMV may require an applicant to complete one or more of the following: vision screening, knowledge test or drive test prior to renewing a driver license or driver permit when DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle in order to determine if the applicant continues to qualify for the driving privilege or if there is good cause, as described in OAR 735-062-0087, to add a restriction described in ORS 807.120 or OAR 735-062-0087.¶

(3) An applicant for the renewal of a driver license or identification card must:¶

(a) Provide a verifiable SSN or written statement that the applicant has not been assigned a SSN as provided in ORS 807.021 and OAR 735-062-0005;¶

(b) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and 735-062-0016; and¶

(c) Provide proof of identity and date of birth as required under ORS 807.040 and provided in OAR 735-062-0020.¶

~~(34)~~ Notwithstanding subsection ~~(23)~~(a) of this rule, an applicant for a Real ID must provide their SSN as provided in OAR 735-062-0006.¶

~~(45)~~ An applicant for a Real ID must provide proof of lawful status as provided in OAR 735-062-0022.¶

~~(56)~~ If applying for a Real ID driver license or permit, the applicant must also meet all requirements of OAR 735-062-0008.¶

~~(67)~~ If applying for a Real ID identification card, the applicant must also meet all requirements of OAR 735-062-0011.¶

~~(78)~~ An applicant for the renewal of a driver license or identification card that includes a change of residence address must present to DMV one of the items constituting proof of residence address listed in OAR 735-062-0030 that shows the applicant's current residence address.¶

~~(89)~~ DMV may renew an unexpired driver license or identification card up to 12 months prior to the expiration date.¶

~~(910)~~ If a driver license has been expired more than two years, the applicant must re-apply for an original driver license and meet the requirements set forth in OAR 735-062-0007.¶

~~(101)~~ Before processing a driver license renewal, DMV will make an inquiry to NDR/PDPS and SPEXS to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.¶

~~(112)~~ If the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction, the applicant may not renew an Oregon driver license until the applicant either submits a clearance letter that complies with OAR 735-062-0160, or a DMV inquiry to NDR/PDPS and SPEXS shows the applicant's driving privileges are reinstated or otherwise valid in the other jurisdiction.¶

~~(123)~~ Notwithstanding section ~~(112)~~ of this rule, DMV will renew the driving privileges of an applicant whose driving privileges are suspended, revoked, canceled or otherwise not valid in another jurisdiction if the only remaining reinstatement requirement in the other jurisdiction is proof of future financial responsibility.¶

~~(134)~~ DMV will not renew an Oregon driver license or permit if the applicant has a current, valid Oregon or out-of-state identification card. To become eligible, the applicant must surrender the Oregon or out-of-state identification card before DMV will renew the Oregon driver license or permit. If the applicant's identification card is lost or the applicant no longer has the identification card in the applicant's possession, the applicant must provide a statement attesting to this fact.¶

~~(145)~~ Notwithstanding section ~~(45)~~ of this rule, DMV will renew a limited term Real ID to an applicant who otherwise qualifies for renewal under this rule and has provided proof of lawful status in the United States as described in OAR 735-062-0022 that has been extended or is still in effect.

Statutory/Other Authority: ORS 184.619, 802.010, 802.012, 807.021, 807.022, 807.040, 807.455, 807.480, 6

CFR § 37.25

Statutes/Other Implemented: ORS 802.012, 802.540, 807.021, 807.022, 807.040, 807.050, 807.060, 807.090,
807.100, 807.120, 807.150, 807.400, ~~PL 116-260 (2020)~~ 49 USC 30301 note

AMEND: 735-062-0110

RULE SUMMARY: DMV proposes to amend this rule to clarify that DMV may require a person applying for a replacement driver license or driver permit to complete testing when DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle in order to determine if a restriction is needed in order for the applicant to safely operate a motor vehicle.

CHANGES TO RULE:

735-062-0110

Replacement Driver Permits, Driver Licenses, and Identification Cards ¶¶

- (1) DMV will issue a replacement driver permit, driver license or identification card for one of the reasons listed in section (2) of this rule if the applicant meets the requirements set forth in ORS 807.160 and this rule and the applicant is eligible for the driver license, driver permit or identification card.¶¶
- (2) DMV may issue a replacement driver license, driver permit or identification card when the applicant:¶¶
 - (a) Furnishes proof satisfactory to the department of the loss, destruction or mutilation of the applicant's driver license, driver permit or identification card.¶¶
 - (b) Changes a residence address or mailing address from the address noted on the applicant's driver license, driver permit or identification card or adds a mailing address.¶¶
 - (c) Is a corrections officer, eligible employee, or household member of a corrections officer or eligible employee killed in the line of duty who has requested, in accordance with ORS 802.250 or 802.253, that department records show the address of the corrections officer's or eligible employee's employer.¶¶
 - (d) Changes names from the name noted on the applicant's driver license, driver permit or identification card.¶¶
 - (e) Is applying or is required to add or remove a restriction on the applicant's driver license or driver permit.¶¶
 - (f) Is applying or is required to add or remove an endorsement other than a motorcycle or farm endorsement on the applicant's driver license or driver permit.¶¶
 - (g) Requests that a veteran designation be added to or removed from the applicant's driver license, driver permit or identification card. To add a veteran designation, the applicant must provide proof the applicant is a veteran as set forth in OAR 735-062-0012(2).¶¶
 - (h) Furnishes proof satisfactory to the department or the department determines that the department made an error when issuing the applicant's driver license, driver permit or identification card.¶¶
 - (i) Surrenders the applicant's non-Real ID driver license that was issued without a photograph under OAR 735-062-0120 and requests a driver license with a photograph.¶¶
 - (j) Surrenders a driver license, driver permit or identification card to the department following a suspension and the applicant becomes eligible for driving privileges or an identification card.¶¶
 - (k) Has a driver license, driver permit or identification card that was confiscated by a police officer, a court or other agency and the applicant is eligible for a driver license, driver permit or an identification card.¶¶
 - (L) Requests to change any physical description, notation, photograph or signature on the driver license, driver permit, or identification card or to add or delete an anatomical donor designation or the fact that a person is deaf or hard of hearing.¶¶
 - (m) Has not received the applicant's driver license, driver permit or identification card in the mail and the applicant does not meet the requirements under OAR 735-062-0092(3) for a reissued driver license, driver permit or identification card.¶¶
 - (n) Has a reason satisfactory to DMV to be issued a driver license, driver permit or identification card with a different distinguishing number than the one being replaced.¶¶
 - (o) Requests a downgrade from one license class to another (e.g., a Commercial Driver License to a non-commercial Class C driver license).¶¶
 - (p) Requests the addition of an endorsement to a CLP or the removal of a restriction from a CLP.¶¶
 - (q) Requests to correct information on the driver license, driver permit or identification card that was provided to DMV in error.¶¶
- (3) An applicant for a replacement non-Real ID driver license, driver permit, or identification card must:¶¶
 - (a) Provide a verifiable SSN or written statement that the applicant has not been assigned a SSN, as provided in OAR 735-062-0005;¶¶
 - (b) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and OAR 735-062-0016; and¶¶
 - (c) Provide proof of identity and date of birth as provided in OAR 735-062-0020.¶¶
- (4) DMV may issue a replacement Real ID driver license or driver permit for one of the reasons provided in section (2) of this rule if the applicant meets the requirements set forth in this rule and OAR 735-062-0008.¶¶

(5) DMV may issue a replacement Real ID identification card for one of the reasons provided in section (2) of this rule if the applicant also meets the requirements set forth in this rule and OAR 735-062-0011.¶¶

(6) An applicant for a replacement driver license, driver permit, or identification card must surrender the license, driver permit or identification card replaced to DMV, if possible.¶¶

(7) Before issuing a replacement driver license or driver permit, DMV will make an inquiry to NDR/PDPS and SPEXS to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction.¶¶

(8) If the applicant's driving privileges are suspended, revoked, canceled or otherwise invalid in any other jurisdiction, DMV will not issue a replacement driver license or driver permit until the applicant submits a clearance letter that complies with OAR 735-062-0160 or a DMV inquiry to NDR/PDPS and SPEXS shows that the applicant's driving privileges are reinstated or otherwise valid in the other jurisdiction.¶¶

(9) Notwithstanding section (8) of this rule, DMV will issue a replacement driver license or driver permit to an applicant whose driving privileges are suspended, revoked, canceled or otherwise invalid if the only remaining reinstatement requirement in the other jurisdiction is proof of future financial responsibility.¶¶

(10) Notwithstanding subsection (3)(c) of this rule, when an applicant applies for a replacement driver license, driver permit or identification card at a DMV office, DMV will issue the replacement driver license, driver permit or identification card using the applicant's previous photograph on file that is not older than nine years and meets standards described in OAR 735-062-0016, unless the applicant chooses to have a new photograph taken.¶¶

(11) When DMV observes a physical or mental condition or impairment not previously known to DMV that may negatively impact the person's ability to safely operate a motor vehicle, DMV may require an applicant to complete one or more of the following: vision screening, knowledge test or drive test, prior to replacing the person's driver license or driver permit. DMV will administer the screening or test to determine if the applicant continues to qualify for the driving privilege or if there is good cause, as described in OAR 735-062-0087, to add a restriction described in ORS 807.120 or OAR 735-062-0087.

Statutory/Other Authority: ORS 184.619, 802.010, 807.021, 807.160, 807.455, 807.480

Statutes/Other Implemented: ORS 807.021, 807.44090, 807.110, 807.120, 807.160, 807.220, 807.230, 807.280, 807.400, 807.455, 807.480, 6 CFR 237.11, ~~PL 116-260 (2020)~~49 USC 30301 note