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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

05/30/2024 4:08 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: CDL Driver History Record Information Transferred between States and Update AAMVA Code Manual Version

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/21/2024 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 proposes to update OAR 735-063-0311 to adopt and incorporate by reference the updated version of Appendix A: ACD Codes, Descriptions, and Abbreviations, from the AAMVA Code Dictionary Manual, r5.2.5 (effective date September 11, 2023), and to remove outdated methods previously used by jurisdictions to notify DMV of a commercial driver's convictions and withdrawals from other jurisdictions.

The Federal Motor Carrier Safety Administration (FMCSA) requires state driver licensing agencies to use the Commercial Driver's License Information System (CDLIS) to exchange driver history record information including convictions, withdrawals, and disqualifications. DMV is updating OAR 735-063-0311 to align with the federal Exclusive Electronic Exchange Final Rule, which prohibits states from sending and receiving commercial convictions and withdrawals by mail.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Federal Register containing the final rule - <https://www.govinfo.gov/content/pkg/FR-2021-07-23/pdf/2021-15693.pdf>

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

In this rulemaking DMV proposes to adopt and incorporate by reference the updated version of Appendix A: ACD Codes, Descriptions, and Abbreviations, from the AAMVA Code Dictionary Manual, r5.2.5 (effective date September 11, 2023), and to remove some outdated methods for exchanging driver history record data between jurisdictions. The rule amendments do not change the content or volume of the information received. DMV believes this rulemaking will have no impact on racial equity in this state.

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).

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 aligning Oregon administrative rule with federal regulation.

AMEND: 735-063-0311

RULE SUMMARY: DMV proposes to update OAR 735-063-0311 to adopt and incorporate by reference the updated version of Appendix A: ACD Codes, Descriptions, and Abbreviations, from the AAMVA Code Dictionary Manual, r5.2.5 (effective date September 11, 2023), and to remove outdated methods previously used by jurisdictions to notify DMV of a commercial driver's convictions and withdrawals from other jurisdictions.

CHANGES TO RULE:

735-063-0311

Driver Records for CDL-Holders and CMV Operators; Enforcement of Federally Required CDP Suspensions

(1) This rule and OAR 735-010-0110 apply to an individual whose driving record contains a:¶

(a) Conviction from an incident that occurred while operating a commercial motor vehicle or while holding commercial driving privileges (CDP), as described in ORS 807.018; or¶

(b) Withdrawal, as defined in section (12)(c)(B) of this rule.¶

(2) DMV adopts and incorporates by reference Appendix A: ACD Codes, Descriptions, and Abbreviations, from the AAMVA Code Dictionary Manual, r5.2.45 (effective date ~~March 24~~September 11, 20223) as the list of conviction and withdrawal codes used in driver records for individuals subject to this rule.¶

(3) When DMV receives a record, report or notice of a conviction or withdrawal, DMV shall enter the appropriate code into the individual's driver record.¶

(4) When an individual changes the individual's state of record from another jurisdiction in the United States, DMV shall integrate the driving history from the other jurisdiction into the Oregon driver record and add any convictions and withdrawals to the Oregon driver record using the appropriate code. DMV does not integrate a driver record from non-United States jurisdictions into the Oregon driver record.¶

(5) DMV integrates into the Oregon driver record convictions and withdrawals received from other jurisdictions electronically through CDLIS, or by mail, fax, or email. DMV retains withdrawals in Oregon driver records for informational purposes and to allow DMV to make suspension determinations as described in sections (7) of this rule.¶

(6) DMV shall determine that a withdrawal did not meet the federal requirements for state disqualification under 49 CFR § 384.231 when:¶

(a) There is an absence of a withdrawal in the driver history record;¶

(b) A withdrawal was imposed, but did not meet the federally-required minimum period; or¶

(c) A withdrawal was imposed, but the jurisdiction was not the state of record for the entire time the withdrawal was in effect.¶

(7) If DMV determines under section (6) of this rule that no withdrawal, or no combination of withdrawals, in the driver record meets the requirements of federal regulation, then DMV shall impose a CDP suspension under ORS 809.510 to 809.550 for the remaining federally-required suspension period.¶

(8) If DMV receives a record of withdrawal reflecting the correct federally-required minimum withdrawal period, and confirmation that the other jurisdiction was the state of record for the person during the withdrawal, DMV shall remove the Oregon withdrawal imposed under section (7) of this rule.¶

(9) DMV shall enter into CDLIS the ACD code "A20" to represent a conviction based on a DUII diversion report under ORS 813.230, received by an individual who held commercial driving privileges in any jurisdiction on the date of the commission of the offense or who operated a commercial motor vehicle at the time of the offense.¶

(10) DMV shall enter into CDLIS the ACD code "A20" to represent a suspension of commercial driving privileges received by an individual under ORS 809.510(1)(g) based on a DUII diversion report under ORS 813.230.¶

(11) Section (9) of this rule applies to DUII diversion reports under ORS 813.230 for offenses occurring on or after January 1, 2023. Section (10) of this rule applies to suspensions issued by DMV under ORS 809.510(1)(g) on or after January 1, 2023.¶

(12) The following definitions apply to this rule:¶

(a) "Conviction" has the meaning given that term in ORS 809.510(6).¶

(b) "Record," "report" or "notice," as used in this rule and in ORS 809.510 to 809.540, includes:¶

(A) An entire driver record received from another jurisdiction,~~received electronically, or by mail, fax, or email;~~ and¶

(B) An individual or grouped series of convictions received from another jurisdiction,~~received electronically, or by mail, fax or email.~~¶

(c) "Withdrawal" means:¶

(A) A cancellation, suspension, revocation of non-commercial driving privileges; or¶

(B) A cancellation, suspension, revocation, or disqualification of commercial driving privileges.¶

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 184.619, 802.010, 802.200, 802.210

Statutes/Other Implemented: ORS 802.200, 802.540, 807.040, 807.045, 807.050, 807.060, 807.070, 807.150, 807.170, 809.310, 809.510 - 809.550, 49 CFR 383.51