



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILED

08/28/2025 8:04 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Commercial Driver Licenses Positive Drug Tests

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2025 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)

The DMV needs to repeal Oregon Administrative Rules (OARs) 735-063-0320 and 735-063-0330 due to the passage of Oregon Laws 2025, Chapter 415, Section 10.

Since 2021, there has been confusion about which Oregon agency should receive Positive Drug Test Results (PDTR) because the statutory language in Oregon Revised Statute (ORS) 825.415 was amended from "Department of Transportation" to "department." The context of the section, which pertains to school transportation providers, led readers to believe the legislature intended to replace the Department of Transportation with the Department of Education. However, ORS 825.005 defines "department" as the "Department of Transportation" for the entire statutory chapter. Thus, the change in statutory language did not technically alter the meaning, despite the presumed legislative intent.

Now that Oregon Laws 2025, Chapter 415 removes the confusion by clearly stating "Department of Education," DMV will repeal OAR 735-063-0320 and 735-063-0330, as the DMV and the Department of Transportation is no longer the recipient of reports of PDTR.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 840 Enrolled version -

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB0840/Enrolled>

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

This rulemaking will not impact racial equity in Oregon. The changes align DMV's rules with the policy of the State and are designed to address specific changes to the PDTR reporting requirements for school transportation providers, ensuring compliance with updated statutory requirements. These provisions are applied uniformly, regardless of the

race or ethnicity of the applicants, thereby maintaining equitable treatment for all individuals under the law.

FISCAL AND ECONOMIC IMPACT:

See 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) There is no cost of compliance for any state agencies, units of local government, or members of the public due to this rulemaking. The state transportation providers and medical review officers were already providing the information to the Department of Education.

(2) This rulemaking aligns OAR with the change in law. DMV does not believe there is any effect on small businesses due to the repeal.

(2)(a) DMV does not believe there are any small businesses subject to the rules. However, if any small businesses are subject to the rules, any impact to the small business is due to the change in statute and not to any change in DMV's rules.

(2)(b) DMV does not believe there is any additional reporting, recordkeeping and administrative activities and costs required to comply with the rules.

(2)(c) DMV does not believe there is any costs of professional services, equipment supplies, labor and increased administration required to comply with the rules. School transportation providers will send positive test results to a different state agency, but that change is due to the change in statute.

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

No small businesses were directly involved in the development of these rule changes. However, DMV sent a draft of the proposed changes to people representing small businesses and no responses were received.

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

This rulemaking aligns OAR with the new statutory policy of the State.

RULES PROPOSED:

735-063-0320, 735-063-0330

REPEAL: 735-063-0320

RULE SUMMARY: The DMV needs to repeal Oregon Administrative Rules (OARs) 735-063-0320 and 735-063-0330 due to the passage of Oregon Laws 2025, Chapter 415, Section 10.

CHANGES TO RULE:

~~735-063-0320~~

~~Report of Positive Drug Test Result from Medical Review Officer~~

~~(1) A report submitted by a medical review officer under ORS 825.410 or 825.415 must include a Report of Positive Drug Test Under ORS 825.410 or 825.415 (DMV form 735-7200) and:~~

~~(a) A legible copy of a completed Federal Custody and Control Form, Copy 2—Medical Review Officer Copy; or~~

~~(b) Either an original or legible copy of a document that contains, at a minimum, the following information:~~

~~(A) Full name of the person tested;~~

~~(B) Specimen ID number;~~

(C) Place of Specimen Collection;¶¶

(D) Date of Specimen Collection;¶¶

(E) Collector's name;¶¶

(F) Whether a split specimen was collected;¶¶

(G) The signature of the person tested, certifying that: he or she provided an unadulterated specimen to the collector; the specimen bottle was sealed with a tamper evident seal in the person's presence; and the information on the label affixed to the specimen bottle was correct;¶¶

(H) The date the medical review officer verified the test result; and¶¶

(I) Signature of the medical review officer.¶¶

(2) DMV will send notice as required by ORS 825.412 or 825.418 when a report as described in section (1) of this rule is received by the agency.

Statutory/Other Authority: ORS 184.616, 184.619, 802.010

Statutes/Other Implemented: ORS 825.410, 825.412, 825.415, 825.418

REPEAL: 735-063-0330

RULE SUMMARY: The DMV needs to repeal Oregon Administrative Rules (OARs) 735-063-0320 and 735-063-0330 due to the passage of Oregon Laws 2025, Chapter 415, Section 10.

CHANGES TO RULE:

~~735-063-0330~~

~~Hearing Request for Entry of Positive Drug Test Result on Employment Driving Record~~

~~(1) When DMV receives a report described in OAR 735-063-0320, DMV will notify the person who is the subject of the report that the person has a right to request a hearing to determine whether a positive drug test result will be placed on the person's employment driving record.¶¶~~

~~(2) A hearing request must be in writing and must include:¶¶~~

~~(a) The person's full name;¶¶~~

~~(b) The person's complete mailing address;¶¶~~

~~(c) The person's Oregon driver license number; and¶¶~~

~~(d) A brief statement of the issues the person proposes to raise at the hearing. The issues are limited to those set forth in ORS 825.412(3) or 825.418(3).¶¶~~

~~(3) The hearing request must be postmarked within 30 days of the date of the notice. If the hearing request is not postmarked or a postmark date cannot be determined, it must be received by DMV within 30 days of the date of the notice. The time period for requesting a hearing is computed as set forth in OAR 137-003-0520(11).¶¶~~

~~(4) A person may submit a hearing request by mail or personal delivery to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR 97314. If the person submits a hearing request by facsimile machine (FAX), it must be received by DMV at FAX number (503) 945-5521. A person may submit a hearing request through the form available on www.OregonDMV.com.¶¶~~

~~(5) A hearing request may also include:¶¶~~

~~(a) The person's date of birth;¶¶~~

~~(b) The telephone number where the person can be reached between 8 a.m. and 5 p.m.; and¶¶~~

~~(c) The dates and times the person or the person's attorney cannot appear at a hearing.¶¶~~

~~(6) Except for good cause shown any factual or legal defense not set forth in the hearing request is considered waived. No evidence offered by a person who requests a hearing will be admitted into the hearing record on any factual or legal defense that is waived.¶¶~~

~~(7) If good cause is shown under section (6) of this rule, the administrative law judge must provide DMV sufficient opportunity to obtain and present any evidence in the contested case hearing deemed necessary by DMV to respond to evidence offered by the person on any factual or legal defense.¶¶~~

~~(8) Except as provided in OAR 137-003-0528, the person's right to a hearing is waived if a hearing is not requested within the time period specified in section (3) of this rule and the notice becomes the final order by default. The test results will be posted to the person's employment driving record.~~

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

~~Statutes/Other Implemented: ORS 825.410, 825.412, 824.415, 825.418~~