



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 740
DEPARTMENT OF TRANSPORTATION
COMMERCE AND COMPLIANCE DIVISION

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Household Goods Unlicensed Advertising, Offering and Transportation Enforcement and Increased Civil Penalties

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/21/2025 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)

These amendments and adoption are required following the passage of SB 839 (2025) to ensure the Division can meet all statutory requirements therein, including authority to enforce new penalties for violations committed by unlicensed household goods movers. The changes include cleanup of old language, the inclusion of new language to align with statute and the adoption of a new rule to align with statute.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Enrolled SB 839 (2025) - <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB839>

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

Adoption of these proposed rules will not have a negative impact on racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

While the proposed rules do increase civil penalty costs associated with unlicensed operations (in alignment with recently passed legislation), licensed businesses will not be impacted, and we anticipate that the increased penalties over time will result in fewer violations.

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) These rules will potentially create economic impacts for both unlicensed carriers, as well as the general public. Unlicensed HHG carriers will experience higher civil monetary penalty (previously a warning, \$100 or \$1000 depending on the violation and history of the carrier, now \$3000). The statutory changes, resulting in the need for these rule changes, strengthen our ability to pursue civil monetary penalties for advertising and offering, which should result in more unlicensed carriers receiving notices of civil penalty for violating program laws and requirements. Lastly, the general public might experience a slight economic benefit due to fewer unlicensed carriers performing services, creating greater assurance they are only paying approved rates, and receiving services from licensed businesses.
- (2) Over time, small licensed moving businesses should experience an increase in available business, due to fewer unlicensed businesses being in operation. In addition, as currently unlicensed businesses seek licensure, additional licensed small businesses will be created. The only small businesses who would be impacted are those who are operating without the required license.
- (2)(a) It is difficult to know exactly how many unlicensed moving businesses exist today. That said, the existing 134 licensed moving companies will be positively impacted by fewer businesses offering similar services.
- (2)(b) These changes will not result in any increased reporting or recordkeeping for licensed businesses and therefore should not result in any additional costs to comply with the requirements therein.
- (2)(c) These rule changes will not result in any increased cost of professional services, equipment supplies, labor and increased administration for licensed businesses.

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

Prior to proposing legislation resulting in the increase of these penalties, both licensed HHG carriers (some of which are small businesses), as well as the Motor Carrier Transportation Advisory Committee and the Oregon Trucking Association, were consulted. We received broad consensus and very positive feedback that these changes would be welcomed by small businesses operating as moving companies.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

740-035-0005, 740-300-0030, 740-300-0035, 740-300-0050, 740-300-0055

AMEND: 740-035-0005

RULE SUMMARY: These amendments and additions to definitions in division 035 are required following the passing of SB 839 (2025).

CHANGES TO RULE:

740-035-0005

Definitions¶¶

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

(1) To "Advertise" means utilizing any form of media including broadcasting, publishing, or the internet to promote the transportation of household goods.¶¶

(2) 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. ¶¶

(23) 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.¶¶

(34) "Household goods" is defined in ORS 825.005(8)¶¶

(5) A "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.¶¶

(46) An "Offer" means expressing readiness or the intent to provide transportation of household goods for or on behalf of someone, through all forms of communication ¶

(7) 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.¶

(58) 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.¶

(9) To "Transport" means utilizing a motor vehicle to move household goods.¶

(10) A "Valid Certificate" means an Oregon Intrastate Certificate to Transport Household Goods, that is not suspended under ORS 825.137, 825.139 or 825.164.

Statutory/Other Authority: ORS 184.619, 823.011

Statutes/Other Implemented: ORS 823.027, ~~ORS 825.354~~

AMEND: 740-300-0030

RULE SUMMARY: These amendments are required following the passing of SB 839 (2025), aligning rules with the new statutory language.

CHANGES TO RULE:

740-300-0030

Violation of ORS 825.100(1), Relating to Operating Without a Certificate or Permit - Penalties-

Except as otherwise ordered by the Department in a particular case, any person who violates ORS 825.100(1) by operating without proper authority, or any rule or order related thereto, in addition to any other penalties authorized by law, shall be subject to the following penalties:¶

~~(1) Where operating authority had been issued to carrier, but was suspended at time of violation:¶~~

~~(a) Level I finding of violations(s) apply if no penalty order or cease and desist order has been entered against the defendant within the preceding five years for violations described in this rule and no other notice of proposed civil penalty or notice of proposed finding of violation(s) is pending against the defendant for violations described in this rule. If such violations have been found within the last five years, or a notice of proposed penalty or notice of proposed finding of violation(s) is pending against the defendant for violations described in this rule, penalties will be assessed at Level II. Upon a finding of violation(s) at Level I, the Department will issue an order finding such violation(s).¶~~

~~(b2) Level II penalties, except as provided in subsection (c3) of this section, apply to a defendant who does not meet the criteria in subsection (a1) of this section. The penalties shall include:¶~~

~~(Aa) \$250 for each new violation committed; and¶~~

~~(Bb) Suspension of operating authority for five working days.¶~~

~~(c3) Level III penalties apply to a defendant who has been penalized at Level II within 12 months preceding the violation. The penalties shall include:¶~~

~~(Aa) \$500 for each new violation committed;¶~~

~~(Bb) Imposition of suspended penalties under prior orders for previous violations of ORS 825.100(1), unless suspension of prior penalties has become permanent; and¶~~

~~(Cc) Suspension of operating authority for five working days, or cancellation of authority if warranted by the circumstances of the particular case.¶~~

~~(24) For the purpose of assessing penalties under section (1) of this rule, a carrier commits one violation for each vehicle operated in a given day while authority is suspended.¶~~

~~(3) Where operating authority had been issued to the carrier, but the carrier did not have the proper authority for the transportation conducted, the same conditions and penalties provided in section (1) of this rule shall apply.¶~~

~~(4) For the purpose of assessing penalties under section (3) of this rule, a carrier commits one violation for each movement made without proper operating authority this rule, each operation of a motor vehicle in violation of this rule is a separate violation.¶~~

(5) For purposes of determining which penalty level is applicable, a corporate carrier will not be held responsible for orders entered against it while under a different controlling interest.

Statutory/Other Authority: ORS 823.011, 825.232

Statutes/Other Implemented: ORS 825.100, 825.950

AMEND: 740-300-0035

RULE SUMMARY: These amendments are required following the passing of SB 839 (2025), aligning rule with new statutory language.

CHANGES TO RULE:

740-300-0035

~~Providing Unauthorized Household Goods Transportation~~ Violation of ORS 825.100(2) - Penalties

Except as otherwise ordered by the Department in a particular case, any person who violates ORS 825.100 by providing an unauthorized household goods moving service, is subject to civil monetary penalties in an amount of up to \$1,000 per violation (2) or any rule or order related thereto, in addition to any other penalties authorized by law, shall be subject to a penalty of \$3,000.

Statutory/Other Authority: ORS 825.950, Ch. 433 OL 2009

Statutes/Other Implemented: ORS 825.100, 825.950

AMEND: 740-300-0050

RULE SUMMARY: The amendment to this rule including OAR 740-300-0045 is required by the passing of SB 839 (2025) and its statutory requirements.

CHANGES TO RULE:

740-300-0050

Mitigation for Violations Described in OAR 740-300-0030, ~~740-300-0040~~ and 740-300-0040-5

A petitioner who has admitted the allegations of a notice of proposed civil penalties under OAR 740-300-0030, 740-300-0040 or 740-300-0045, or who has requested mitigation under ORS 825.950(4)(b) within 15 days of service of a penalty order, may be eligible for mitigation of penalties. Except as otherwise ordered by the Department in a particular case, and except as provided in section (4) of this rule, the mitigation policy set forth in sections (1), (2) and (3) of this rule shall apply to any person who incurs a penalty under OAR 740-300-0030, 740-300-0040 or 740-300-0045 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:¶¶

(1) Level I Penalties: The Department shall suspend 50 percent of the monetary penalty assessed or requested under OAR 740-300-0045 for each violation at Level I on the condition that petitioner must not violate similar statutes or regulations within one year from the date of the penalty order.¶¶

(2) Level II Penalties: There shall be no mitigation of monetary penalties for violations at Level II, but the Department may hold in abeyance any suspension of operating authority which has been imposed or requested.¶¶

(3) Level III Penalties: There shall be no mitigation allowed with respect to penalties imposed or requested that were imposed and suspended under prior orders, nor shall mitigation be allowed with respect to monetary penalties imposed at Level III. However, the Department may hold in abeyance any new suspension of operating authority which has been imposed at Level III. Where the Department has ordered cancellation of authority, it will consider mitigation of such order on a case-by-case basis.¶¶

(4) The Department shall consider the history of violations by the petitioner and the number of violations charged in determining whether the mitigation guidelines in sections (1), (2) and (3) of this rule are appropriate. There shall be no mitigation in the following cases:¶¶

(a) Where the petitioner provided false information to the Department staff about the nature of its operations;¶¶

(b) Where the petitioner willfully evaded or attempted to evade compliance, such as registration at a port of entry; or¶¶

(c) Where the petitioner has failed to pay previously assessed penalties.

Statutory/Other Authority: ORS 823.011, 825.232

Statutes/Other Implemented: ORS 825.950

ADOPT: 740-300-0055

RULE SUMMARY: The adoption of this new rule is required by the passing of SB 839 (2025), ensuring that rule aligns with new statutory language and its requirements.

CHANGES TO RULE:

740-300-0055

Mitigation for Violations Described in OAR 740-300-0035

A respondent who has violated ORS 825.100(2) and admitted the allegations of a notice of proposed civil penalties under OAR 740-300-0035, or who has requested mitigation under ORS 825.950(4)(b) within 15 days of service of a penalty order, may be eligible for mitigation of penalties. The mitigation guidelines set forth below shall apply to any person who incurs a penalty under OAR 740-300-0035 and who has taken corrective action, as approved by the Department, to remedy the violation(s) and otherwise is in substantial compliance with the laws and rules of the Department:¶¶

(1) If respondent has not previously received mitigation for any proposed civil penalty under OAR 740-300-0035, the Department may suspend up to 50 percent of the monetary penalty assessed or requested on the condition that the respondent must not violate ORS 825.100(2) within one year from the date of the penalty order.¶¶

(2) There shall be no mitigation allowed with respect to penalties that were imposed and suspended under prior orders.¶¶

(3) The Department shall consider the history of violations by the respondent and the number of violations charged in determining whether the mitigation guidelines of this rule are appropriate. There shall be no mitigation in the following cases:¶¶

(a) Where the respondent has failed to pay previously assessed penalties.¶¶

(b) Where the respondent provided false or misleading information to Department staff about the nature of its operations.¶¶

(c) Where the respondent has already received mitigation for the proposed corrective action.

Statutory/Other Authority: ORS 823.011, 825.232, 825.950

Statutes/Other Implemented: ORS 825.100, 825.950