OFFICE OF THE SECRETARY OF STATE
BEV CLARNO
SECRETARY OF STATE

JEFF MORGAN
INTERIM DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

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

TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMV 19-2020

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILED
06/25/2020 12:03 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Process Changes for Driver Permits, Restructure of DMV Operating Sections and Violation of License Restrictions

EFFECTIVE DATE: 07/06/2020 THROUGH 01/01/2021

AGENCY APPROVED DATE: 05/27/2020

CONTACT: Cassandra Bay
503-945-5232
cassandra.e.bay@odot.state.or.us

DMV Driver Programs
1905 Lana Avenue NE
Salem,OR 97314

Filed By:
Lauri Kunze
Rules Coordinator

NEED FOR THE RULE(S):

DMV's Service Transformation Program (STP) has created opportunities to review DMV driver permits and optimize them based on new technological capabilities. DMV identified many ineffective or out-of-date processes during preparation for its system modernization. This rulemaking proposes eliminating many of those processes to align with new capabilities and updated processes.

DMV is amending OAR 735-064-0080 which describes the process for issuing hardship permits to applicants whose driving privileges are suspended or revoked. With this amendment, applicants are no longer required to visit a DMV field office to be issued a restricted license. DMV's new computer system will update the driving record of the restricted driver upon issuance of the hardship permit from DMV Headquarters. Law enforcement will be able to view the restricted status of a hardship permit through an interface with DMV's computer system.

To reduce unnecessary configuration and to establish an expiration date that most closely matches the intent of the emergency and student driver permit, DMV proposes to amend OARs 735-064-0230 and 735-064-0235 by eliminating the option to have an emergency or student driver permit expire one week after the applicant's 18th birthday.

Temporary driver permits will now be automatically generated through DMV's computer system. As a result, DMV proposes to amend OAR 735-062-0096 to reflect the discontinuance of the temporary driver permit form. Moreover, to prevent premature invalidation of a driver license, driver permit or identification card issued from another jurisdiction, DMV is proposing to eliminate language authorizing the invalidation of a driver license, driver permit or identification card issued from another jurisdiction upon issuance of a temporary driver permit. The issuance of a temporary driver permit does not guarantee issuance of an Oregon driver license, driver permit or identification card.

Electronic convictions are submitted securely from courts to DMV. A court that convicts a driver for violating a license restriction can submit the conviction electronically to DMV. However, due to character limitations, electronic submission does not include applicable subsections to a statutory citation. Due to DMV's inability to obtain the complete violation information and to align with current practices, DMV is proposing to repeal OAR 735-070-0090, which requires DMV to send drivers a warning or take suspension action on a driver convicted of violating a license restriction.

Through STP, reorganizing and restructuring DMV's processing units require amending several administrative rules as they reference specific processing units that no longer function under a specific unit name. Minor terminology amendments are also proposed for clarity.

JUSTIFICATION OF TEMPORARY FILING:

In alignment with the operative date for Oregon to become compliant with the Federal Real ID Act of 2005, phase II of DMV's system modernization project was scheduled to be implemented on July 6, 2020. Due to COVID-19, the federal enforcement date for Real ID has been delayed but Oregon law still requires a compliance date by July 2020.

DMV has programmed its system to implement the new processes and procedures described in this rulemaking starting July 6, 2020. Failure to adopt these rules will result in serious prejudice if DMV programs and processes are implemented without first filing the administrative rule amendments and repeals necessary to implement these programs that have already been programmed into DMV's computer system. As a result of this programming, multiple programs would be out of compliance with DMV's current administrative rules that set out requirements for persons doing business with DMV. The impacted persons subject to the serious prejudice are driver hardship permit applicants, temporary driver permit holders and law enforcement officers who enforce driving restrictions and implied consent laws.

Failure to adopt the proposed administrative rules prior to system implementation may cause complications due to unclear guidelines regarding the new process for issuing hardship permits, submitting hardship permit applications, withdrawing implied consent forms submitted by police agencies and rescinding implied consent suspensions imposed on wrong persons because these rules instruct permit applicants and law enforcement on how to submit specific forms. If rules are not filed, hardship permits issued to customers will not comply with current rules and drivers could be cited for an offense at no fault of their own. Drivers could challenge their citations, which may invite unnecessary legal proceedings. Additionally, delays in hardship permit issuances or amendments to hardship permits may cause issues for drivers who depend on the hardship to legally drive their vehicle to employment, medical appointments, obtain necessary services, treatment or rehabilitation programs. A delay in the withdrawal of implied consent form may lead to a wrongful suspension of driving privileges imposed on driver, which may also invite unnecessary legal challenges.

The Real ID fee for hardship permit applicants who have already satisfied Real ID requirements will be subject to Real ID fees as set forth in ORS 807.480. Driver licenses issued by DMV may not be issued in compliance with DMV rules, leaving the customer not entitled to the Real ID driver license issued by DMV.

DMV planned to present the permanent rules for approval at the June OTC meeting. However, that meeting has been

cancelled, and June was the last month available for approving the permanent rules before the rules must go into effect. Due to programming lead times, the system configuration for this new rule goes into production on July 6, 2020. Reprogramming or establishing a manual work around would be costly and impact DMV's new system rollout.

Due to the cancellation of the OTC June meeting, temporary rules are necessary to ensure clarity and reduce risk for legal challenges. Without the temporary rules, multiple programs will be operating out of compliance and lack public transparency, resulting in serious prejudice to the public interest.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

RULES:
735-062-0087, 735-062-0096, 735-062-0115, 735-064-0080, 735-064-0090, 735-064-0230, 735-064-0235, 735-070-0054, 735-070-0055, 735-070-0060, 735-070-0090

AMEND: 735-062-0087

RULE SUMMARY: Amendment of OAR 735-062-0087 removes references to DMV's "Driver Safety Case Management Unit" due to department reorganization. This rule also eliminates the hardship permit from issuances that require a restriction on the issued permit.

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 o~~f~~n 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 ~~hardship permit that allows limited driving during certain types of suspensions, or 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~~'s Driver Safety Case Management Unit~~ 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 equipped with specific equipment that does not have its own restriction code.

Statutory/Other Authority: ORS 184.619, 802.010~~,~~ & 807.120

Statutes/Other Implemented: ORS 807.120

AMEND: 735-062-0096

RULE SUMMARY: Amendment of OAR 735-062-0096 removes the requirement to invalidate a driver license or driver permit after a temporary permit is issued. To align with new system technological capabilities, applicants will be given the opportunity to surrender the out of state driving privilege or identification card after an inquiry to SPEXS/S2S determines that an applicant holds an out of state driving privilege or identification card.

CHANGES TO RULE:

735-062-0096
Surrendered Driver License, Driver Permit or Identification Card ¶

(1) When DMV issues an interim driver card or an interim identification card to an applicant under OAR 735-062-0094~~ or an applicant temporary permit under ORS 807.310~~, DMV will invalidate and return the driver license, driver permit or identification card the applicant surrendered. An invalidated driver license or driver permit may not be used as proof of driving privileges, but is not deemed cancelled under ORS 801.175.¶
(2) DMV will invalidate a surrendered driver license, driver permit or identification card by hole-punching the card.¶
(3) The invalidated driver license, driver permit or identification card must be destroyed by the applicant when:¶
(a) A valid driver license, driver permit or identification card issued and mailed by DMV is received by the applicant; or¶
(b) Driving privileges or rights to an identification card have been suspended, cancelled or revoked.¶
(4) A foreign driver license that is surrendered under a reciprocity agreement with the country that issued the license will be handled as specified in the agreement.¶
(5) Before issuing, renewing or replacing any driver license, driver permit or identification card DMV will make an inquiry to the SPEXS/S2S Verification System to determine if an applicant holds a driver license, permit or identification card in any another jurisdiction.¶
(6) If DMV determines the applicant holds a driver license, driver permit or identification card in another jurisdiction, the applicant will be given the opportunity to surrender privileges from the other jurisdiction.
Statutory/Other Authority: ORS 184.61~~6~~9, ~~184.619,~~& 802.010
Statutes/Other Implemented: ORS 807.024, 807.045, 807.060, 807.150, 807.160, 807.310, 807.540, 807.550~~,~~ & 807.580

AMEND: 735-062-0115

RULE SUMMARY: Amendment of OAR 735-062-0115 removes the reference of DMV's discontinued form. DMV system will be able to generate temporary permits automatically and makes minor terminology amendment.

CHANGES TO RULE:

735-062-0115
Non-Issue of a Driver License Following Confiscation ¶

(1) ~~The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV)~~DMV will not issue a driver license to a person whose driving record indicates a pending Implied Consent Law suspension under ORS 813.100.¶
(2) DMV will issue a temporary driving permit~~, Form 45,~~ instead of a driver license if the person is eligible for driving privileges.¶
(3) The permit issued under section (2) of this rule is valid until the Implied Consent Law suspension takes effect ~~or until the person's driver license expires~~.
Statutory/Other Authority: ORS ~~184.616,~~ 184.619, 802.010~~,~~ & 813.110
Statutes/Other Implemented: ORS 807.160, 813.100~~,~~ & 813.110

AMEND: 735-064-0080

RULE SUMMARY: Amendment of OAR 735-064-0080 removes reference to “the Driver Suspension Unit” due to department reorganization. This rule removes the requirement for a hardship permit applicant to apply for a restricted driver license at a DMV field office.

CHANGES TO RULE:

735-064-0080
How the Hardship Permit Is Issued ¶

(1) DMV will mail a hardship permit to the address the applicant submitted on the applicant's Hardship Permit Application when all of the documents are received by ~~the Driver Suspensions Unit~~DMV and a hardship permit is approved. ~~The applicant then must take the hardship permit to any DMV field office to have a restricted driver license issued.~~¶
(2) A replacement license is included in the fee for the hardship driver permit application imposed under ORS 807.370(1)(L). The applicant must apply for and pay the applicable driver license renewal or original issuance fee set forth in ORS 807.370 to renew a driver license or to be issued an original driver license. ¶
(3) A Real ID issued under this section shall be subject to any fee imposed under ORS 807.460. ¶
(~~2~~4) The hardship permit will contain specific restrictions a~~nd is part of the restricted driver license~~pplicable to the applicant. The person must carry the hardship permit in addition to a valid ~~restricted~~ driver license at all times while driving.¶
(~~3~~5) ~~A hardship permit is valid for the length of the suspension or revocation period unless it is suspend~~ Notwithstanding OAR 735-064-0110, a hardship permit is valid until the end of the following, whichever comes first:¶
(a) The length of the suspension or revocation period; or¶
(b) The period granted by DMV if the permit was issued for ~~revoked pursuant to OAR 735-064-0110~~the purposes of seeking employment under OAR 735-064-0060(5). ¶
(6) DMV will require a renewal fee to reissue a hardship permit issued under section (5) of this rule.
Statutory/Other Authority: ORS 184.619, 802.010~~,~~ & 807.240
Statutes/Other Implemented: ORS 807.240

AMEND: 735-064-0090

RULE SUMMARY: Amendment of OAR 735-064-0090 contains minor terminology amendments for mailing purposes and clarifies the requirements that must be met before DMV will issue a hardship permit.

CHANGES TO RULE:

735-064-0090
How to Change the Hardship Permit Driving Restrictions ¶

(1) When ~~the~~a person needs to change the driving restrictions on a hardship permit, the person must submit a Hardship Application or a letter with new information, as described in this rule, to the Driver S~~uspens~~anctions Unit, DMV, 1905 Lana Avenue N.E., Salem, Oregon 97314.¶
(2) ~~The~~A person must submit verification of employment as required by OAR 735-064-0040~~(10)(b)~~, if the change requested is employment related and the person is required to drive as part of the person's job description.¶
(3) ~~The~~A person who is eligible to drive to and from medical treatment as described in OAR 735-064-0040~~(7)(c)~~, must submit a signed statement from the physician as required in OAR 735-064-0040~~(7)(c)~~.¶
(4) After ~~the requirements of~~receiving the information described in section~~s~~ (1)~~,~~ and either section (2) ~~and~~or (3) of this rule~~ have been met~~, DMV will mail the applicant a hardship permit with new driving restrictions. The person must have the hardship permit in addition to a valid restricted driver license in the person's possession at all times while driving.¶
(5) If a person is requesting a change to a hardship or probationary permit issued before January 1, 2019, any requirement in an applicable statute or administrative rule in effect immediately before January 1, 2019, applies.
Statutory/Other Authority: ORS 184.619, 802.010~~,~~ & 807.240
Statutes/Other Implemented: ORS 807.240

AMEND: 735-064-0230

RULE SUMMARY: Amendment of OAR 735-064-0230 specifies that an emergency permit will expire at the end of the emergency or six months and 60 days after issuance of the emergency driver permit for permits issued after the applicant's 16th birthday.

CHANGES TO RULE:

735-064-0230
Emergency Driver Permit ¶

(1) An emergency driver permit authorizes operation of only those vehicles that the holder of a Class C non-commercial driver license may operate, and does not include operation of any vehicle that requires commercial driving privileges or an endorsement.¶
(2) DMV may issue an emergency driver permit to a person between 14 and 18 years of age for an emergency situation only, and not for convenience. An emergency situation includes, but is not limited to, the need for a person to drive to and from:¶
(a) Medical appointments and treatment for the person or a member of the person's immediate family when no other means of transportation is available;¶
(b) Work or on the job when no other transportation is available and the person's employment is essential to the welfare of the person's family;¶
(c) Work or on the job when the person's employment is necessary to help harvest crops that may go unharvested or be lost if the person is unable to drive; and¶
(d) Grocery stores when no other means of transportation is available.¶
(3) DMV may issue an emergency driver permit to a person for an emergency situation when a court has issued an order of denial of the person's driving privileges under ORS 809.260. For purposes of this subsection, an emergency situation includes, but is not limited to:¶
(a) Those emergencies situations listed in Section (2) of this rule; and¶
(b) The need to drive to and from school when no other means of transportation is available.¶
(4) Except as provided in section (5) of this rule, an applicant for an emergency driver permit must:¶
(a) Submit a completed Student/Emergency Permit Application, Form 735-0009 or Court Denial Emergency Driver Permit Application, Form 735-0009a;¶
(b) Provide proof satisfactory to DMV detailing the need for an emergency driver permit signed by the applicant, and the applicant's parent or legal guardian, if the applicant is under 18 years of age and is not an emancipated minor, including, but not limited to:¶
(A) The circumstances of the emergency;¶
(B) The expected end date of the emergency;¶
(C) A complete description of the days, times and routes to be traveled;¶
(D) The name and address of the medical facilities, routes, days and times the applicant is required to drive to appointments or treatment on a regular basis, if the applicant needs to drive to medical appointments or to receive medical treatment on a regular basis for himself or herself or a member of the applicant's immediate family. The applicant also must submit a signed statement from a licensed physician, licensed physician assistant or licensed nurse practitioner treating the applicant or the applicant's immediate family member, advising of the need for medical appointments or treatment on a regular basis. The statement must include how often appointments or treatments are required and the hours of the day and days of the week appointments or treatments are available. Actual appointment and treatment times are subject to verification by DMV and law enforcement;¶
(E) A signed letter from the applicant's employer on company letterhead stating the days and hours the applicant works if the applicant is applying to drive for employment purposes; and¶
(F) The signature of a school administrator on the application certifying that there is no other school or public transportation available and that the applicant attends school on the days and hours stated on the application, if

the applicant is applying to travel to and from school.¶
(c) Pay all applicable fees;¶
(d) Pay the reinstatement fee as established under ORS 807.370 if the applicant's driving privileges are suspended by court denial;¶
(e) Fulfill all applicable requirements of ORS Chapter 807 and OAR 735, division 062, for issuance of a Class C non-commercial driver license; and¶
(f) Have an instruction driver permit, if the applicant is over 15 years of age, or if under 15 years of age, obtain an instruction driver permit within 60 days after the applicant's 15th birthday. This subsection does not apply to an applicant who is only eligible for an emergency permit because his or her driving privileges are suspended by a court ordered denial of driving privileges under ORS 809.260.¶
(5) To be eligible for an emergency driver permit, an applicant does not need to:¶
(a) Possess an instruction driver permit for at least six months prior to applying for an emergency driver permit;¶
(b) Have at least 50 hours of driving experience with a licensed driver over the age of 21; or¶
(c) Complete a traffic safety education course.¶
(6) In addition to any other driving restrictions that may be imposed by DMV, the holder of an emergency driver permit, who is under 18 years of age, may not drive a motor vehicle carrying any passenger under 20 years of age who is not a member of the permit holder's immediate family.¶
(7) Except as provided in section (9) of this rule, an emergency driver permit issued prior to the applicant's 16th birthday will expire on the following date, whichever occurs first:¶
(a) At the end of the emergency; or¶
(b) Six months and 60 days after the emergency driver permit holder's 16th birthday.¶
(8) Except as provided in section (9) of this rule, an emergency driver permit issued on or after the applicant's 16th birthday and prior to the applicant's 18th birthday will expire on the following date, whichever occurs first:¶
(a) At the end of the emergency; or¶
(b) Six months and 60 days after issuance of the emergency driver permit~~; or¶~~
~~(c) One week after the emergency driver permit holder's 18th birthday~~.¶
(9) Section (7) and (8) of this rule are not applicable to an emergency driver permit issued because a court ordered denial of driving privileges, under ORS 809.260, which expires on the following date, whichever comes first:¶
(a) At the end of the emergency; or¶
(b) At the end of the suspension period.¶
(10) After the end of the suspension period for a court order denial of driving privileges under ORS 809.260, a person issued an emergency driver permit may be eligible to apply for a driver license or driver permit, including an emergency permit or special student driver permit.
Statutory/Other Authority: ORS 184.619, 802.010, 807.120~~,~~ & 807.220
Statutes/Other Implemented: ORS 807.031, 807.170, 807.200~~,~~ & 807.220

AMEND: 735-064-0235

RULE SUMMARY: Amendment of OAR 735-064-0235 specifies that a student permit will expire when the applicant has other means of transportation or six months and 60 days after issuance of the permit for permits issued after the applicant's 16th birthday.

CHANGES TO RULE:

735-064-0235
Special Student Driver Permit ¶

(1) A special student driver permit authorizes operation of only those vehicles that the holder of a Class C driver license may operate, and does not include operation of any vehicle that requires commercial driving privileges or an endorsement.¶
(2) A special student driver permit authorizes a person to only drive between the person's home and the closest alternate means of transportation, or if alternate transportation does not exist, between home and the school, college or other educational institution in which the person is enrolled and is attending for an educational purpose. An educational purpose includes participation in extra-curricular activities as long as the student drives only to his or her school, college or educational institution for which the permit is issued.¶
(3) Except as provided in section (4) of this rule, an applicant for a special student driver permit must:¶
(a) Submit a completed Student Driver's Permit Application, Form 735-0009, signed by the applicant's parent or legal guardian and endorsed by the sheriff of the county in which the applicant resides and the principal of the school or educational institution, or registrar of the college, in which the applicant is enrolled;¶
(b) Pay all applicable fees;¶
(c) Have an instruction driver permit, if the applicant is over 15 years of age, or if under 15 years of age, obtain an instruction driver permit within 60 days after the applicant's 15th birthday;¶
(d) Fulfill all applicable requirements of ORS Chapter 807 and OAR 735, Division 062, for issuance of a Class C non-commercial driver license; and¶
(e) Provide proof satisfactory to DMV that the applicant has no other means of transportation available including but not limited to:¶
(A) A map(s) showing the route between the applicant's home and alternate transportation or home and the school, college or educational institution in which the applicant is enrolled and public transportation routes; and¶
(B) The hours for which the applicant needs the special student permit and a copy of public transportation schedules.¶
(4) To be eligible for a special student driver permit, an applicant does not need to:¶
(a) Possess an instruction driver permit for at least six months prior to applying for a special student driver permit;¶
(b) Have at least 50 hours of driving experience with a licensed driver over the age of 21 years of age; or¶
(c) Complete a traffic safety education course.¶
(5) In addition to any other driving restrictions that may be imposed by DMV:¶
(a) The holder of a special student driver permit may not drive a motor vehicle carrying any passenger under 20 years of age who is not a member of the special student permit holder's immediate family; and¶
(b) The holder of a special student driver permit may not drive between 12 midnight and 5 a.m.¶
(6) A special student driver permit issued prior to the applicant's 16th birthday will expire on the following date, whichever occurs first:¶
(a) When the applicant has other means of transportation to and from school, college or other educational institutions; or¶
(b) Six months and 60 days after the applicant's 16th birthday.¶
(7) A special student driver permit issued on or after the applicant's 16th birthday and prior to the applicant's 18th birthday will expire on the following date, whichever occurs first:¶
(a) When the applicant has other means of transportation to and from school, college or other educational

institution; or¶
(b) Six months and 60 days after issuance~~; or¶~~
~~(c) One week after the applicant's 18th birthday~~.
Statutory/Other Authority: ORS ~~184.616,~~ 184.619, 802.010, 807.120~~,~~ & 807.230
Statutes/Other Implemented: ORS 807.031, 807.170, 807.200~~,~~ & 807.230

AMEND: 735-070-0054

RULE SUMMARY: Amendment of OAR 735-070-0054 contains minor terminology amendments for clarity and removes reference of “the Driver Suspension Unit” due to department reorganization.

CHANGES TO RULE:

735-070-0054
Police Reports for Implied Consent Suspension Under ORS 813.100, 813.120, 813.132 and 813.410 ¶

(1) A police report required by ORS 813.100 must be submitted to the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) on forms approved and distributed by the department.¶
(2) For ~~the Driver Suspensions Unit~~DMV to suspend a person's non-commercial Class C driving privileges, commercial driv~~er license,~~ing privileges or both or right to apply for driving privileges or a commercial driv~~er license~~ing privileges under ORS 813.410 for failure of a breath test or for refusal of a breath, blood or urine test, the implied consent form(s) must:¶
(a) Be received by DMV on or before the 30th day after the date of arrest; and¶
(b) Contain the following information:¶
(A) Specify all of the following that apply:¶
(i) The person failed a breath test;¶
(ii) The person refused a breath test;¶
(iii) The person refused a blood test;¶
(iv) The person refused a urine test;¶
(v) The person was operating a commercial motor vehicle;¶
(vi) The person was operating a vehicle transporting hazardous materials.¶
(B) A date of arrest; and¶
(C) The reporting officer's signature below the statement, "I affirm by my signature that the foregoing events occurred." The officer's signature will be considered acceptable if located anywhere on the line of the form directly below the statement.¶
(3) For ~~the Driver Suspensions Unit~~DMV to suspend a person's non-commercial Class C driving privileges, commercial driv~~er license~~ing privileges, or both or right to apply for driving privileges or a commercial driv~~er license~~ing privileges under ORS 813.410 for failure of a blood test, the police report form must be received by DMV on or before the 45th day after the date of arrest and must indicate that the person failed a blood test and whether the person was operating a commercial motor vehicle, as well as the information required in paragraphs (2)(b)(B) and (C) of this rule.¶
(4) If an implied consent suspension has been posted pursuant to this rule and a timely hearing request has not been submitted as provided for in ORS 813.410(3), the driver may have the implied consent suspension withdrawn only by:¶
(a) Having the police agency or district attorney's office follow procedures outlined in OAR 735-070-0055;¶
(b) Obtaining and prevailing at a hearing under ORS 813.440; or¶
(c) ~~The Driver Suspension Unit~~DMV, when it withdraws the suspension pursuant to ORS 813.460 and OAR 735-070-0060.
Statutory/Other Authority: ORS ~~184.616,~~ 184.619, 802.010, 813.100~~,~~ & 813.120.
Statutes/Other Implemented: ORS 813.100, 813.120, 813.130~~,~~ & 813.404 - 813.460

AMEND: 735-070-0055

RULE SUMMARY: Amendment of OAR 735-070-0055 removes references of “the Driver Suspensions Unit” due to department reorganization.

CHANGES TO RULE:

735-070-0055
Withdrawal of Implied Consent Forms by Police Agency ¶

(1) ~~The Driver Suspension Unit of the~~ Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) shall allow the withdrawal of any form issued under ORS 813.100 when ~~the unit~~DMV receives written notice from the original reporting police agency or, if the police agency no longer exists, from the district attorney's office in the jurisdiction of the originating police agency. The notice of withdrawal shall:¶
(a) State which requirements under ORS 813.120 were not met;¶
(b) Be written on official police agency letterhead or on letterhead of the district attorney's office if the police agency no longer exists;¶
(c) Be signed by the head of the police agency that issued the form or another superior officer in the agency, or the district attorney or the district attorney's designee if the police agency no longer exists;¶
(d) State the name of the person to whom any form issued under ORS 813.100 was issued and the date of the arrest; and¶
(e) Be submitted to ~~the Driver Suspensions Unit of~~ DMV.¶
(2) DMV shall not allow the withdrawal of any form issued under ORS 813.100 if an Implied Consent hearing has been held and a final order has been issued.
Statutory/Other Authority: ORS 184.61~~6~~9 & 802.010
Statutes/Other Implemented: ORS 813.100, 813.120~~,~~ & 813.410 ~~& OL 1995, Ch. 676~~

AMEND: 735-070-0060

RULE SUMMARY: Amendment of OAR 735-070-0060 removes references of “the Driver Suspensions Unit” due to department reorganization.

CHANGES TO RULE:

735-070-0060
Procedure for Rescinding Implied Consent Suspensions of Wrong Person Under ORS 813.460 ¶

(1) When the Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV) must verify to its satisfaction that it has suspended the driving privilege of the wrong person under ORS 813.410, ~~the Driver Suspensions Unit of~~ DMV must receive written notice from the original reporting police agency or, if the police agency no longer exists, from the District Attorney's office in the jurisdiction of the originating police agency. The notice:¶
(a) Must be signed by the reporting officer or a superior officer, or the district attorney if the police agency no longer exists;¶
(b) Must state the name of the person whose name was falsely used;¶
(c) Should include the name, address and date of birth of the person actually arrested for driving under the influence of intoxicants, if known; and¶
(d) Should include the date of arrest.¶
(2) When ~~the Driver Suspensions Unit~~DMV receives this notice, it will rescind the suspension that was entered on the driving record of the person whose name was falsely used.¶
(3) If the notice includes the correct name of the person actually arrested for driving under the influence of intoxicants, ~~the Driver Suspensions Unit~~DMV will issue a notice of suspension to the person's address as shown by DMV records. A suspension order under this section is subject to the following:¶
(a) The suspension begins 35 days from the mailing date of the suspension notice unless a hearing is requested;¶
(b) The suspension is subject to an increase in the length of the suspension period under ORS 813.430;¶
(c) DMV must receive a hearing request within 15 days of the mailing date of the suspension notice or the hearing is waived; and¶
(d) The Office of Administrative Hearings will conduct the hearing pursuant to ORS 813.410 and issue a final order. The suspension will not go into effect pending the outcome of the hearing.¶
(e) Notwithstanding subsection (d), the time limitations in ORS 813.410(1), (2), (3) and (4) do not apply to a suspension order issued under this section.
Statutory/Other Authority: ORS 184.61~~6, 184.619,~~9 & 802.010
Statutes/Other Implemented: ORS 813.410~~,~~ & 813.460

SUSPEND: 735-070-0090

RULE SUMMARY: Suspension of OAR 735-070-0090, to align with current DMV practices, eliminates notification and suspension requirements for persons convicted of violating a license restriction.

CHANGES TO RULE:

~~735-070-0090~~
~~Violation of License Restriction~~
~~(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) shall send an advisory letter to a person upon receipt of a first conviction for violation of license restriction unless license suspension is required under section (2) of this rule:¶~~
~~(a) The letter shall advise the person that a second conviction for violation of license restriction within a five-year period will result in suspension of driving privileges;¶~~
~~(b) The letter shall advise the person of the procedure for removing the restriction from the license providing the restriction no longer applies to the person;¶~~
~~(c) The letter shall be sent to the person by first class mail to DMV's address of record; and¶~~
~~(d) Failure to receive the letter shall not prevent suspension when there is a second or subsequent conviction within a five-year period.¶~~
~~(2) DMV shall suspend the person's driving privilege:¶~~
~~(a) Upon receipt of a second or subsequent conviction for violation of license restriction within a five-year period; or¶~~
~~(b) Upon receipt of any conviction for violation of license restriction, when the restriction violated was a requirement of the driver improvement program or provisional license driver improvement program. Suspension action shall be taken even if the conviction is received by DMV after the end of the restriction period.¶~~
~~(3) All of the following apply to the suspension under section (2) of this rule:¶~~
~~(a) The suspension notice issued shall include information advising the person of the procedure for removing the restriction from the license providing the restriction no longer applies to the person; and¶~~
~~(b) The suspension shall be for 30 days.¶~~
~~(4) The following exceptions apply to this rule:¶~~
~~(a) An advisory letter under section (1) of this rule shall not be sent if the restriction no longer applies and has been removed from the person's driver license before the advisory letter can be produced and mailed;¶~~
~~(b) A suspension notice under subsection (2)(a) of this rule shall not be sent if the restriction no longer applies and the restriction has been removed from the person's driver license before the suspension notice can be produced and mailed; and¶~~
~~(c) This rule does not apply to violation of hardship permit or probationary permit restrictions.~~
~~Statutory/Other Authority: ORS 184.616, 809.410, 809.480~~
~~Statutes/Other Implemented: ORS 807.120, 809.410, 809.480~~