

House Bill 2107

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Department of Transportation)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires operator of school bus to have school bus endorsement.

Establishes offenses for which person is disqualified from holding commercial driver license. Adds offenses that require suspension of commercial driver license. Suspends commercial driver license if person convicted of driving any motor vehicle while under influence of intoxicants.

Imposes additional requirements involving issuance and renewal of hazardous materials endorsement. Allows department to revoke hazardous materials endorsement under certain circumstances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to driving privileges; creating new provisions; amending ORS 153.090, 801.303, 801.477,
3 807.031, 807.035, 807.036, 807.040, 807.045, 807.070, 807.072, 807.080, 807.280, 807.370, 809.240,
4 809.400, 809.413, 809.460, 810.375, 811.182, 813.130, 813.215, 813.404 and 813.410; and declaring an
5 emergency.

6 **Be It Enacted by the People of the State of Oregon:**

SCHOOL BUS ENDORSEMENT

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8
9
10 **SECTION 1.** ORS 807.035 is amended to read:

11 807.035. This section describes the type of driving privileges granted by various endorsements
12 issued by this state. The following endorsements grant the driving privileges described:

13 (1) A motorcycle endorsement authorizes a person to operate any motorcycle.

14 (2) A hazardous materials endorsement authorizes a person to operate a vehicle transporting
15 hazardous materials.

16 (3) A tank vehicle endorsement authorizes a person to operate tank vehicles.

17 (4) A passenger endorsement authorizes a person to operate [*vehicles*] **a vehicle that is** designed
18 to transport 16 or more persons, including the driver, **but that is not a school bus.**

19 **(5) A school bus endorsement authorizes a person to operate a school bus if the person**
20 **also holds a valid passenger endorsement.**

21 [(5)] **(6)** A trailer endorsement authorizes a person to operate double and triple trailers.

22 [(6)] **(7)** A combined endorsement authorizes a person to operate a tank vehicle, transport haz-
23 arduous materials and transport hazardous materials in a tank vehicle.

24 [(7)] **(8)** A Class A farm endorsement authorizes a person to:

25 (a) Operate or tow any vehicle that can be operated by the holder of a Class A commercial
26 driver license if the vehicle is:

27 (A) Controlled or operated by a farmer;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;
- 2 (C) Not used in the operation of a common or contract motor carrier; and
- 3 (D) Used within 150 miles of the farmer's farm.

4 (b) Operate any vehicle described in paragraph (a) of this subsection that is transporting haz-
 5 arduous materials if the vehicle is placarded in accordance with law.

6 [(8)] (9) A Class B farm endorsement authorizes a person to:

7 (a) Operate or tow any vehicle that can be operated or towed by the holder of a Class B com-
 8 mercial driver license if the vehicle is:

- 9 (A) Controlled or operated by a farmer;
- 10 (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;
- 11 (C) Not used in the operation of a common or contract motor carrier; and
- 12 (D) Used within 150 miles of the farmer's farm.

13 (b) Operate any vehicle described in paragraph (a) of this subsection that is transporting haz-
 14 arduous materials if the vehicle is placarded in accordance with law.

15 **SECTION 2. The amendments to ORS 807.035 by section 1 of this 2005 Act apply to per-**
 16 **sons operating a school bus on or after October 1, 2005.**

17 **SECTION 3.** ORS 807.031 is amended to read:

18 807.031. This section describes the type of driving privileges granted by the various licenses is-
 19 sued by this state. Licenses are established by class with the highest class being Class A commer-
 20 cial. Each class of license grants driving privileges for that class and for all lower classes. [No] A
 21 license [grants] **does not grant** driving privileges for which an endorsement is required. The fol-
 22 lowing licenses grant the driving privileges described:

23 (1) A Class A commercial driver license authorizes a person to operate any vehicle or combi-
 24 nation of vehicles except that the person may not operate any vehicle for which an endorsement is
 25 required unless the person obtains the endorsement.

26 (2) A Class B commercial driver license authorizes a person to operate any single vehicle and
 27 to tow a vehicle that is not in excess of 10,000 pounds gross vehicle weight rating. The person may
 28 not operate any vehicle for which an endorsement is required unless the person obtains the
 29 endorsement.

30 (3) A Class C commercial driver license authorizes a person to operate:

31 (a) Any vehicle that is designed to transport 16 or more persons, including the driver, if the
 32 gross vehicle weight rating of the vehicle is less than 26,001 pounds and the person has [*a passenger*
 33 *endorsement*] **the proper endorsement to operate a vehicle described in this paragraph;**

34 (b) Any vehicle that is owned or leased by, or operated under contract with, a mass transit
 35 district or a transportation district when the vehicle is actually being used to transport passengers
 36 for hire, regardless of the number of passengers, if the gross vehicle weight rating of the vehicle is
 37 less than 26,001 pounds and the person has a passenger endorsement;

38 (c) Any vehicle that is used in the transportation of hazardous materials if the gross vehicle
 39 weight rating of the vehicle is less than 26,001 pounds and the person has the proper endorsement;
 40 and

41 (d) Any vehicle that may be operated by the holder of a Class C license.

42 (4) A Class C driver license authorizes a person to operate any vehicle for which a commercial
 43 driver license is not required except that the person may not operate any vehicle for which an
 44 endorsement is required unless the person obtains the endorsement.

45 (5) A restricted Class C license authorizes a person to operate a moped or to operate under one

1 of the permits described in ORS 807.200 as constituting a restricted Class C license. The person may
 2 not operate any vehicle for which an endorsement is required or be granted any endorsements for
 3 the license.

4 **SECTION 4.** ORS 807.036 is amended to read:

5 807.036. Notwithstanding any other provision of law, the operator of a tow vehicle is not re-
 6 quired to have an endorsement for towing a disabled vehicle that can be operated only by a person
 7 with an endorsement if the towing operation is the first move of the disabled vehicle and is per-
 8 formed as an emergency service or if [it] **the move** is a subsequent move of an empty vehicle that
 9 requires a passenger endorsement **or a school bus endorsement** for operation.

10 **SECTION 5.** ORS 807.070 is amended to read:

11 807.070. The Department of Transportation shall administer an examination to establish quali-
 12 fication for each class of license and endorsement. The examination for each class of license or
 13 endorsement shall include all of the following as described:

14 (1) A test of the applicant's eyesight. This subsection does not apply to an applicant with a
 15 limited vision condition as defined in section 2, chapter 277, Oregon Laws 2003.

16 (2) A test of the applicant's knowledge and understanding of the traffic laws of this state, safe
 17 driving practices and factors that cause accidents. The following all apply to the test under this
 18 subsection:

19 (a) The test shall not cover any subject that is not presented in the publications of the depart-
 20 ment intended for the instruction of applicants for licenses and driver permits.

21 (b) The test for each class of license and endorsement shall include, but is not limited to, a test
 22 of knowledge and understanding of traffic laws that relate specifically to the type of driving privi-
 23 leges granted under the specific class of license or endorsement sought.

24 (c) The test under this subsection shall include, but is not limited to, the following subjects:

25 (A) Rights of blind pedestrians.

26 (B) The meaning of official traffic signs and signals.

27 (C) Proper operating procedure in emergency situations.

28 (D) Vehicle safety equipment and its use.

29 (E) Practices necessary for safe operation of a vehicle around pedestrians and bicyclists.

30 (d) The department may waive the test under circumstances described in ORS 807.072.

31 (3) A test that is an actual demonstration of the applicant's ability to operate a motor vehicle
 32 without endangering the safety of persons or property. The following apply to this subsection:

33 (a) The actual demonstration for each class of license shall be performed in a vehicle that may
 34 be operated under the class of license sought, but that may not be operated under lower classes of
 35 license.

36 (b) An actual demonstration for a passenger endorsement shall be performed in a vehicle that
 37 is designed to transport 16 or more persons, including the driver.

38 (c) **An actual demonstration for a school bus endorsement shall be performed in a school**
 39 **bus.**

40 [(c)] (d) The department may waive the demonstration under circumstances described in ORS
 41 807.072.

42 (4) Any other examination or test, including demonstrations, that the department determines
 43 may be necessary to assist the department in establishing whether the applicant is eligible for a li-
 44 cense under ORS 807.060 or whether the applicant is fit to operate a motor vehicle safely on the
 45 highways of this state. In any examination or test under this subsection, the department shall only

1 conduct an investigation for facts relating directly to the ability of the applicant to operate a motor
 2 vehicle safely or other facts that are specifically required to show the fitness of the applicant for
 3 license.

4 **SECTION 6.** ORS 807.070, as amended by section 10, chapter 277, Oregon Laws 2003, is
 5 amended to read:

6 807.070. The Department of Transportation shall administer an examination to establish quali-
 7 fication for each class of license and endorsement. The examination for each class of license or
 8 endorsement shall include all of the following as described:

9 (1) A test of the applicant's eyesight.

10 (2) A test of the applicant's knowledge and understanding of the traffic laws of this state, safe
 11 driving practices and factors that cause accidents. The following all apply to the test under this
 12 subsection:

13 (a) The test shall not cover any subject that is not presented in the publications of the depart-
 14 ment intended for the instruction of applicants for licenses and driver permits.

15 (b) The test for each class of license and endorsement shall include, but is not limited to, a test
 16 of knowledge and understanding of traffic laws that relate specifically to the type of driving privi-
 17 leges granted under the specific class of license or endorsement sought.

18 (c) The test under this subsection shall include, but is not limited to, the following subjects:

19 (A) Rights of blind pedestrians.

20 (B) The meaning of official traffic signs and signals.

21 (C) Proper operating procedure in emergency situations.

22 (D) Vehicle safety equipment and its use.

23 (E) Practices necessary for safe operation of a vehicle around pedestrians and bicyclists.

24 (d) The department may waive the test under circumstances described in ORS 807.072.

25 (3) A test that is an actual demonstration of the applicant's ability to operate a motor vehicle
 26 without endangering the safety of persons or property. The following apply to this subsection:

27 (a) The actual demonstration for each class of license shall be performed in a vehicle that may
 28 be operated under the class of license sought, but that may not be operated under lower classes of
 29 license.

30 (b) An actual demonstration for a passenger endorsement shall be performed in a vehicle that
 31 is designed to transport 16 or more persons, including the driver.

32 **(c) An actual demonstration for a school bus endorsement shall be performed in a school**
 33 **bus.**

34 [(c)] **(d)** The department may waive the demonstration under circumstances described in ORS
 35 807.072.

36 (4) Any other examination or test, including demonstrations, that the department determines
 37 may be necessary to assist the department in establishing whether the applicant is eligible for a li-
 38 cense under ORS 807.060 or whether the applicant is fit to operate a motor vehicle safely on the
 39 highways of this state. In any examination or test under this subsection, the department shall only
 40 conduct an investigation for facts relating directly to the ability of the applicant to operate a motor
 41 vehicle safely or other facts that are specifically required to show the fitness of the applicant for
 42 license.

43 **SECTION 7.** ORS 807.072 is amended to read:

44 807.072. (1) The Department of Transportation, by rule, may waive any examination, test or
 45 demonstration required under ORS 807.065 (1)(b) or 807.070 (2) or (3) if the department receives

1 satisfactory proof that the person required to take the examination, test or demonstration has
 2 passed an examination, test or demonstration approved by the department that:

3 (a) Is given in conjunction with a traffic safety education course certified by the department
 4 under ORS 802.345;

5 (b) Is given in conjunction with a motorcycle rider education course established under ORS
 6 802.320;

7 (c) Is given in conjunction with a course conducted by a commercial driver training school
 8 certified by the department under ORS 822.515; or

9 (d) Is given in conjunction with an application for a special limited vision condition learner's
 10 permit under section 3, chapter 277, Oregon Laws 2003.

11 (2) The department, by rule, may waive the actual demonstration required under ORS 807.070
 12 (3) for *[an applicant]* **a person who is applying** for a commercial driver license or a Class C license
 13 if the *[applicant]* **person** holds a valid out-of-state license or applies for an Oregon license within
 14 one year of the expiration of a valid out-of-state license. A demonstration may be waived under this
 15 subsection only if the person has applied for the same driving privileges as those granted under the
 16 person's out-of-state license or for privileges granted by a lower class of license.

17 (3) The department may waive the actual demonstration required under ORS 807.070 for *[any*
 18 *applicant]* **a person who is applying** for a commercial driver license **or for an endorsement re-**
 19 **lated to a commercial driver license if the person** *[who]* submits to the department a certificate
 20 of competency[,] issued under ORS 807.080 for the class of license **or for the endorsement** sought
 21 or under other circumstances, established by the department by rule, *[if the applicant establishes the*
 22 *applicant's]* **that establish the person's** ability to drive without an actual demonstration.

23 (4) The department may issue a Class A farm endorsement without requiring additional tests to
 24 a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to
 25 the department that the person is experienced in driving a vehicle that may be driven only by per-
 26 sons who have a Class A commercial driver license and the person's two-part driving record does
 27 not show either a traffic accident within two years of the date of application for the endorsement
 28 or a conviction for one of the following traffic crimes within five years of the date of application for
 29 the endorsement:

30 (a) Reckless driving, as defined in ORS 811.140.

31 (b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

32 (c) Failure to perform the duties of a driver involved in an accident or collision, as described
 33 in ORS 811.700 or 811.705.

34 (d) Criminal driving while suspended or revoked, as defined in ORS 811.182.

35 (e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

36 (5) The department may issue a Class B farm endorsement without requiring additional tests to
 37 a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to
 38 the department that the person is experienced in driving a vehicle that may be driven only by per-
 39 sons who have a Class B commercial driver license and the person's two-part driving record does
 40 not show either a conviction for a traffic crime specified in subsection (4) of this section within five
 41 years of the date of application for the endorsement or a traffic accident within two years of the
 42 date of application for the endorsement.

43 (6) The department by rule may establish other circumstances under which a farm endorsement
 44 may be issued without an actual demonstration. The authority granted by this subsection includes,
 45 but is not limited to, authority to adopt rules specifying circumstances under which the endorsement

1 may be granted to a person despite the appearance of traffic accidents on the person's record.

2 **SECTION 8.** ORS 807.072, as amended by section 11, chapter 277, Oregon Laws 2003, is
 3 amended to read:

4 807.072. (1) The Department of Transportation, by rule, may waive any examination, test or
 5 demonstration required under ORS 807.065 (1)(b) or 807.070 (2) or (3) if the department receives
 6 satisfactory proof that the person required to take the examination, test or demonstration has
 7 passed an examination, test or demonstration approved by the department that:

8 (a) Is given in conjunction with a traffic safety education course certified by the department
 9 under ORS 802.345;

10 (b) Is given in conjunction with a motorcycle rider education course established under ORS
 11 802.320; or

12 (c) Is given in conjunction with a course conducted by a commercial driver training school
 13 certified by the department under ORS 822.515.

14 (2) The department, by rule, may waive the actual demonstration required under ORS 807.070
 15 (3) for *[an applicant]* **a person who is applying** for a commercial driver license or a Class C license
 16 if the *[applicant]* **person** holds a valid out-of-state license or applies for an Oregon license within
 17 one year of the expiration of a valid out-of-state license. A demonstration may be waived under this
 18 subsection only if the person has applied for the same driving privileges as those granted under the
 19 person's out-of-state license or for privileges granted by a lower class of license.

20 (3) The department may waive the actual demonstration required under ORS 807.070 for *[any*
 21 *applicant]* **a person who is applying** for a commercial driver license **or for an endorsement re-**
 22 **lated to a commercial driver license if the person** *[who]* submits to the department a certificate
 23 of competency[,] issued under ORS 807.080 for the class of license **or for the endorsement** sought
 24 or under other circumstances, established by the department by rule, *[if the applicant establishes the*
 25 *applicant's]* **that establish the person's** ability to drive without an actual demonstration.

26 (4) The department may issue a Class A farm endorsement without requiring additional tests to
 27 a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to
 28 the department that the person is experienced in driving a vehicle that may be driven only by per-
 29 sons who have a Class A commercial driver license and the person's two-part driving record does
 30 not show either a traffic accident within two years of the date of application for the endorsement
 31 or a conviction for one of the following traffic crimes within five years of the date of application for
 32 the endorsement:

33 (a) Reckless driving, as defined in ORS 811.140.

34 (b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

35 (c) Failure to perform the duties of a driver involved in an accident or collision, as described
 36 in ORS 811.700 or 811.705.

37 (d) Criminal driving while suspended or revoked, as defined in ORS 811.182.

38 (e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

39 (5) The department may issue a Class B farm endorsement without requiring additional tests to
 40 a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to
 41 the department that the person is experienced in driving a vehicle that may be driven only by per-
 42 sons who have a Class B commercial driver license and the person's two-part driving record does
 43 not show either a conviction for a traffic crime specified in subsection (4) of this section within five
 44 years of the date of application for the endorsement or a traffic accident within two years of the
 45 date of application for the endorsement.

1 (6) The department by rule may establish other circumstances under which a farm endorsement
 2 may be issued without an actual demonstration. The authority granted by this subsection includes,
 3 but is not limited to, authority to adopt rules specifying circumstances under which the endorsement
 4 may be granted to a person despite the appearance of traffic accidents on the person's record.

5 **SECTION 9.** ORS 807.080 is amended to read:

6 807.080. (1) The Department of Transportation, by rule, shall provide for the following in a
 7 manner consistent with this section:

- 8 (a) The issuance of driver competency testing certificates.
- 9 (b) The regulation of persons issued driver competency testing certificates.

10 (2) A person issued a driver competency testing certificate under this section may certify, in a
 11 manner established by the department, the competency of drivers to safely exercise driving privi-
 12 leges granted only under one or more of the following:

- 13 (a) A Class A commercial driver license.
- 14 (b) A Class B commercial driver license.
- 15 (c) A Class C commercial driver license.
- 16 **(d) An endorsement related to a commercial driver license.**

17 (3) The department may waive an actual demonstration of ability to operate a motor vehicle
 18 under ORS 807.070 for an applicant who is certified by the holder of a driver competency testing
 19 certificate as competent to exercise the driving privileges in the class of license **or in the**
 20 **endorsement** sought by the applicant.

21 (4) The rules adopted by the department under this section may [*include any of the following:*]

22 [(a) *The rules may*] establish reasonable fees for the issuance of a certificate or as part of any
 23 program of regulating certificate holders that is established by the department.

24 [(b)] **(5) When adopting rules under this section,** the department may:

25 **(a)** Make the certificate renewable upon any basis determined convenient by the department and
 26 may include provisions for cancellation, revocation or suspension of certificates or for probation of
 27 certificate holders.

28 [(c)] **(b)** [*The department may*] Provide for the issuance of certifications allowing the holder to
 29 certify competency in several classes or types of driving privileges or limiting the classes or types
 30 of driving privileges for which the holder may certify competency.

31 [(d)] **(c)** [*The department may*] Establish the forms of certificates to be issued.

32 [(e)] **(d)** [*The department may*] Establish and require forms that are to be used by certificate
 33 holders in certifying competency.

34 [(f)] **(e)** [*The department may*] Establish any qualifications or requirements for obtaining a cer-
 35 tificate that the department determines necessary to protect the interests of persons seeking certif-
 36 ication by certificate holders.

37 [(g)] **(f)** [*The department may*] Issue certificates to publicly owned and operated educational fa-
 38 cilities to allow programs for certification of competency.

39 [(h)] **(g)** [*The department may*] Issue certificates to employers to allow the employers to establish
 40 programs primarily for the certification of employees' competency. The department may provide that
 41 programs established under this paragraph may be operated without driver training school certif-
 42 icates under ORS 822.500 and without driver training instructor certificates under ORS 822.525.

43 [(i)] **(h)** [*The department may*] Establish any other provisions or requirements necessary to carry
 44 out the purposes of this section.

45 **SECTION 10.** ORS 807.370 is amended to read:

1 807.370. The following are the fees relating to the issuance and renewal of licenses, driver per-
 2 mits and endorsements:

3 (1) Disability golf cart driver permit fees under ORS 807.210, as follows:

4 (a) For issuance, \$38.50.

5 (b) For renewal fee under ORS 807.210, \$26.50.

6 (2) Emergency driver permit fee under ORS 807.220, \$18.

7 (3) Instruction driver permit issuance fee under ORS 807.280, \$18.

8 (4)(a) License issuance fee for a Class C license, \$48.50.

9 (b) Fee to take the knowledge test for a Class C license, \$5.

10 (c) Fee to take the skills test for a Class C license, \$9.

11 (5) License issuance fee for a restricted Class C license, \$48.50.

12 (6) License issuance fee for a commercial driver license, whether or not the license contains
 13 endorsements, \$70.

14 (7) Test fees for a commercial driver license or permit:

15 (a) To take the knowledge test for a Class A commercial license or permit, \$10.

16 (b) To take the skills test for a Class A commercial license, \$70.

17 (c) To take the knowledge test for a Class B commercial license or permit, \$10.

18 (d) To take the skills test for a Class B commercial license, \$70.

19 (e) To take the knowledge test for a Class C commercial license or permit, \$10.

20 (f) To take the skills test for a Class C commercial license, \$70.

21 (8) Notwithstanding subsection (6) of this section, for issuance of a commercial driver license
 22 of any class when the Department of Transportation accepts a certificate of competency issued un-
 23 der ORS 807.080, \$40 in addition to the fee under subsection (6) of this section.

24 **(9) Notwithstanding subsection (6) of this section, for original issuance of a school bus**
 25 **endorsement to a person who has a commercial driver license, \$21 in addition to any appli-**
 26 **cable fees under subsection (8) of this section.**

27 [(9)] (10) For a farm endorsement, \$26.

28 [(10)] (11) Test fees for the knowledge test for endorsements other than motorcycle and farm
 29 endorsements:

30 (a) For a hazardous materials endorsement, \$10.

31 (b) For a tank vehicle endorsement, \$10.

32 (c) For a passenger endorsement, \$10.

33 (d) For a trailer endorsement, \$10.

34 **(e) For a school bus endorsement, \$10.**

35 [(11)] (12) Fee to take an airbrake knowledge test, \$10.

36 [(12)] (13) Fee to take an airbrake skills test to remove an airbrake restriction, \$56.

37 [(13)] (14) License renewal fee for a commercial driver license, \$50.

38 [(14)] (15) License renewal fee for a Class C license, \$28.50.

39 [(15)] (16) License replacement fee under ORS 807.160, \$21.

40 [(16)] (17) Original endorsement issuance fee under ORS 807.170 for a motorcycle endorsement,
 41 \$46, in addition to any fees for the endorsed license.

42 [(17)] (18) Permit replacement fee under ORS 807.220, 807.230, 807.280 and 807.290, \$21.

43 [(18)] (19) Special student driver permit fee under ORS 807.230, \$18.

44 [(19)] (20) Student Driver Training Fund eligibility fee under ORS 807.040 and 807.150, \$6.

45 [(20)] (21) Motorcycle Safety Subaccount fee as follows:

1 (a) Upon original issuance of motorcycle endorsements under ORS 807.170, \$28.

2 (b) Upon renewal of a license with a motorcycle endorsement under ORS 807.170, \$28.

3 [(21)] **(22)** Probationary driver permit application fee under ORS 807.270, \$50.

4 [(22)] **(23)** Hardship driver permit application fee under ORS 807.240, \$50.

5 [(23)] **(24)** Fee for reinstatement of revoked driving privileges under ORS 809.390, \$75.

6 [(24)] **(25)** Fee for reinstatement of suspended driving privileges under ORS 809.380, \$75.

7 [(25)] **(26)** Fee for reinstatement of right to apply for driving privileges after a delay under ORS
8 809.280 (10) (1997 Edition), the same as the fee for reinstatement of suspended driving privileges.

9 [(26)] **(27)** Fee for hazardous materials endorsement security check, \$50.

10 [(27)] **(28)** Fee for a special limited vision condition learner's permit under section 3, chapter
11 277, Oregon Laws 2003, \$13.

12 **SECTION 11.** ORS 807.370, as amended by section 13, chapter 277, Oregon Laws 2003, is
13 amended to read:

14 807.370. The following are the fees relating to the issuance and renewal of licenses, driver per-
15 mits and endorsements:

16 (1) Disability golf cart driver permit fees under ORS 807.210, as follows:

17 (a) For issuance, \$38.50.

18 (b) For renewal fee under ORS 807.210, \$26.50.

19 (2) Emergency driver permit fee under ORS 807.220, \$18.

20 (3) Instruction driver permit issuance fee under ORS 807.280, \$18.

21 (4)(a) License issuance fee for a Class C license, \$48.50.

22 (b) Fee to take the knowledge test for a Class C license, \$5.

23 (c) Fee to take the skills test for a Class C license, \$9.

24 (5) License issuance fee for a restricted Class C license, \$48.50.

25 (6) License issuance fee for a commercial driver license, whether or not the license contains
26 endorsements, \$70.

27 (7) Test fees for a commercial driver license or permit:

28 (a) To take the knowledge test for a Class A commercial license or permit, \$10.

29 (b) To take the skills test for a Class A commercial license, \$70.

30 (c) To take the knowledge test for a Class B commercial license or permit, \$10.

31 (d) To take the skills test for a Class B commercial license, \$70.

32 (e) To take the knowledge test for a Class C commercial license or permit, \$10.

33 (f) To take the skills test for a Class C commercial license, \$70.

34 (8) Notwithstanding subsection (6) of this section, for issuance of a commercial driver license
35 of any class when the Department of Transportation accepts a certificate of competency issued un-
36 der ORS 807.080, \$40 in addition to the fee under subsection (6) of this section.

37 **(9) Notwithstanding subsection (6) of this section, for original issuance of a school bus**
38 **endorsement to a person who has a commercial driver license, \$21 in addition to any appli-**
39 **cable fees under subsection (8) of this section.**

40 [(9)] **(10)** For a farm endorsement, \$26.

41 [(10)] **(11)** Test fees for the knowledge test for endorsements other than motorcycle and farm
42 endorsements:

43 (a) For a hazardous materials endorsement, \$10.

44 (b) For a tank vehicle endorsement, \$10.

45 (c) For a passenger endorsement, \$10.

- 1 (d) For a trailer endorsement, \$10.
- 2 (e) **For a school bus endorsement, \$10.**
- 3 [(11)] (12) Fee to take an airbrake knowledge test, \$10.
- 4 [(12)] (13) Fee to take an airbrake skills test to remove an airbrake restriction, \$56.
- 5 [(13)] (14) License renewal fee for a commercial driver license, \$50.
- 6 [(14)] (15) License renewal fee for a Class C license, \$28.50.
- 7 [(15)] (16) License replacement fee under ORS 807.160, \$21.
- 8 [(16)] (17) Original endorsement issuance fee under ORS 807.170 for a motorcycle endorsement,
- 9 \$46, in addition to any fees for the endorsed license.
- 10 [(17)] (18) Permit replacement fee under ORS 807.220, 807.230, 807.280 and 807.290, \$21.
- 11 [(18)] (19) Special student driver permit fee under ORS 807.230, \$18.
- 12 [(19)] (20) Student Driver Training Fund eligibility fee under ORS 807.040 and 807.150, \$6.
- 13 [(20)] (21) Motorcycle Safety Subaccount fee as follows:
- 14 (a) Upon original issuance of motorcycle endorsements under ORS 807.170, \$28.
- 15 (b) Upon renewal of a license with a motorcycle endorsement under ORS 807.170, \$28.
- 16 [(21)] (22) Probationary driver permit application fee under ORS 807.270, \$50.
- 17 [(22)] (23) Hardship driver permit application fee under ORS 807.240, \$50.
- 18 [(23)] (24) Fee for reinstatement of revoked driving privileges under ORS 809.390, \$75.
- 19 [(24)] (25) Fee for reinstatement of suspended driving privileges under ORS 809.380, \$75.
- 20 [(25)] (26) Fee for reinstatement of right to apply for driving privileges after a delay under ORS
- 21 809.280 (10) (1997 Edition), the same as the fee for reinstatement of suspended driving privileges.
- 22 [(26)] (27) Fee for hazardous materials endorsement security check, \$50.

23
24 **DISQUALIFICATION FROM HOLDING**
25 **A COMMERCIAL DRIVER LICENSE**

26
27 **SECTION 12. Section 13 of this 2005 Act is added to and made a part of the Oregon Ve-**
28 **hicle Code.**

29 **SECTION 13. (1) Subject to administrative review under ORS 809.440, the Department of**
30 **Transportation shall deny a person's application for a commercial driver license or suspend**
31 **a person's commercial driver license if the person is disqualified from holding a commercial**
32 **driver license under this section.**

33 **(2) A person is disqualified from holding a commercial driver license if the department**
34 **receives two or more of any of the following in any combination regarding the person:**

35 **(a) A record of conviction for driving while under the influence of intoxicants under ORS**
36 **813.010 and the person was driving a motor vehicle or a commercial motor vehicle at the time**
37 **of the offense.**

38 **(b) A final order issued under ORS 813.410 that suspends the person's commercial driver**
39 **license for refusal to submit to a test under ORS 813.100 and the person was driving a motor**
40 **vehicle or a commercial motor vehicle at the time of the offense.**

41 **(c) A final order issued under ORS 813.410 that suspends the person's commercial driver**
42 **license because the person submitted to a breath or blood test and the person's blood, as**
43 **shown by the test, had 0.04 percent or more by weight of alcohol and the person was driving**
44 **a commercial motor vehicle at the time of the offense.**

45 **(d) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties**

1 of a driver and the person was driving a motor vehicle or a commercial motor vehicle at the
 2 time of the offense.

3 (e) A record of conviction of a crime punishable as a felony, other than a felony described
 4 in subsection (3) of this section, and the person was operating a motor vehicle or a com-
 5 mercial motor vehicle at the time of the offense.

6 (f) A record of conviction for driving a commercial motor vehicle while, as a result of
 7 prior violations committed while operating a commercial motor vehicle, the person's com-
 8 mercial driver license had been suspended or revoked.

9 (g) A record of conviction of any degree of murder, manslaughter or criminally negligent
 10 homicide resulting from the operation of a commercial motor vehicle or assault in the first
 11 degree resulting from the operation of a commercial motor vehicle.

12 (3) A person is disqualified from holding a commercial driver license if the department
 13 receives a record of conviction for the person for a crime punishable as a felony that involves
 14 the manufacturing, distributing or dispensing of a controlled substance, as defined in ORS
 15 475.005, and in which a motor vehicle or a commercial motor vehicle was used.
 16 Notwithstanding subsection (4) of this section, the department may not issue or reinstate a
 17 commercial driver license for the lifetime of a person whose commercial driver license is
 18 suspended under this subsection.

19 (4) Ten years after a second conviction or final order under subsection (2) of this section,
 20 a person may apply to the department for the right to apply for a commercial driver license
 21 or for reinstatement of the person's commercial driver license. The department may issue
 22 or reinstate a commercial driver license to a person who meets all other requirements for
 23 the issuance of a commercial driver license if the department, in the discretion of the de-
 24 partment, finds good cause shown and that the person voluntarily entered and successfully
 25 completed a rehabilitation program approved by the department.

26 (5) Notwithstanding subsection (4) of this section, if the department receives a subse-
 27 quent record of conviction or final order described in subsection (2) of this section for a
 28 person who had the person's commercial driver license issued or reinstated under subsection
 29 (4) of this section, the department shall suspend the person's commercial driver license for
 30 the lifetime of the person.

31 (6) For the purposes of applying this section to a person who does not hold a commercial
 32 driver license at the time of the commission of an offense described in subsection (2) of this
 33 section:

34 (a) A person who receives a first conviction or final order of an offense shall be disqual-
 35 ified from applying for a commercial driver license for the period of time prescribed in ORS
 36 809.413 for commission of the same offense.

37 (b) A person who receives a second conviction or final order of an offense shall be dis-
 38 qualified from applying for a commercial driver license for the lifetime of the person.

39 (7) For the purposes of this section:

40 (a) Second or subsequent records of conviction or final orders apply only if the con-
 41 victions or orders arose out of separate incidents.

42 (b) A record of conviction or final order applies to a person who does not hold a com-
 43 mercial driver license only if the person was operating a commercial motor vehicle at the
 44 time of the commission of the offense.

45 **SECTION 14.** Section 13 of this 2005 Act applies to offenses committed by a person on

1 **or after the effective date of this 2005 Act.**

2 **SECTION 15.** ORS 807.040 is amended to read:

3 807.040. (1) The Department of Transportation shall issue a driver license to any person who
4 complies with all of the following requirements:

5 [(1)] (a) The person must complete **an** application for a license under ORS 807.050.

6 [(2)] (b) The person must not be ineligible for the license under ORS 807.060 and must be eligible
7 for the license under ORS 807.062.

8 [(3)] (c) The person must successfully pass all examination requirements under ORS 807.070 for
9 the class of license sought.

10 [(4)] (d) The appropriate license fee under ORS 807.370 for the class of license sought must be
11 paid.

12 [(5)] (e) The Student Driver Training Fund eligibility fee must be paid.

13 [(6)] (f) If the application is for a commercial driver license, the *[applicant]* **person** must be the
14 holder of a Class C license or any higher class of license.

15 [(7)] (g) If the application is for a commercial driver license, the *[applicant]* **person** must submit
16 to the department, in a form approved by the department, the report of a medical examination that
17 establishes, to the satisfaction of the department, that the *[applicant]* **person** meets the medical re-
18 quirements for the particular class of license. The department, by rule, shall establish medical re-
19 quirements for purposes of this *[subsection]* **paragraph**. The medical requirements established under
20 this *[subsection]* **paragraph** may include any requirements the department determines are necessary
21 for the safe operation of vehicles permitted to be operated under the class of license for which the
22 requirements are established.

23 [(8)] (h) If the application is for a commercial driver license, the *[applicant]* **person** must:

24 (A) Have at least one year's driving experience;

25 (B) **Not be disqualified from holding a commercial driver license under section 13 of this**
26 **2005 Act; and**

27 (C) **Not be otherwise ineligible to hold a commercial driver license.**

28 [(9)] (2) The department shall work with other agencies and organizations to attempt to improve
29 the issuance system for driver licenses.

30 **SECTION 16.** ORS 807.045 is amended to read:

31 807.045. (1) In order to be authorized to drive a commercial motor vehicle in this state, a person
32 who holds a commercial driver license issued by a jurisdiction other than Oregon must, within 30
33 days of becoming domiciled in Oregon:

34 (a) Apply to the Department of Transportation for an Oregon commercial driver license;

35 (b) Certify to the department that the *[applicant's]* **person's** current commercial driver license
36 is not subject to any disqualification, suspension, revocation or cancellation and that the
37 *[applicant]* **person** does not have a commercial driver license from more than one jurisdiction; and

38 (c) Surrender any commercial driver license issued to the *[applicant]* **person** by another juris-
39 diction.

40 (2) The department shall issue a commercial driver license to a person who complies with sub-
41 section (1) of this section if the department determines that the person is:

42 (a) Eligible for a commercial driver license. In order to determine eligibility under this
43 *[section]* **paragraph**, the department may require from the *[applicant]* **person** any additional infor-
44 mation that *[it]* **the department** determines necessary and may require the *[applicant]* **person** to
45 pass any examinations, tests or demonstrations that the department determines necessary[.];

1 **(b) Not disqualified from holding a commercial driver license under section 13 of this 2005**
2 **Act; and**

3 **(c) Not otherwise ineligible for a commercial driver license.**

4 (3) For purposes of this section, a person is domiciled in this state if the person meets the cri-
5 teria described in ORS 803.355.

6 **SECTION 17.** ORS 809.240 is amended to read:

7 809.240. (1) If a person is convicted of an offense that will result in mandatory suspension or
8 revocation under ORS 809.409, 809.411, 809.413, 813.400 or 813.403 **or section 13 of this 2005 Act**,
9 the trial judge shall:

10 (a) Impose the revocation or suspension at the time of conviction for the required period; and

11 (b) Comply with the requirements under ORS 809.250 to take possession of the license or driver
12 permit of the person.

13 (2) When necessary to give full effect to this section, a court shall issue a temporary driver
14 permit under ORS 807.320.

15 **SECTION 18.** ORS 809.460 is amended to read:

16 809.460. (1) Except as provided in subsection (4) of this section, if a suspension or revocation
17 of driving privileges is based upon a conviction, the court that entered the judgment of conviction
18 may direct the Department of Transportation to rescind the suspension or revocation if:

19 (a) The person has appealed the conviction; and

20 (b) The person requests in writing that the court direct the department to rescind the suspension
21 or revocation pending the outcome of the appeal.

22 (2) If directed by a court pursuant to subsection (1) of this section to do so, the department shall
23 immediately rescind a suspension or revocation of driving privileges.

24 (3) The court shall notify the department immediately if the conviction is affirmed on appeal, the
25 appeal is dismissed or the appeal is not perfected within the statutory period. Upon receipt of notice
26 under this subsection, the department shall reimpose any suspension or revocation that has been
27 rescinded under this section.

28 (4) If a person's commercial driver license was suspended under ORS 809.413 or 813.403 **or**
29 **section 13 of this 2005 Act**, the department shall not rescind suspension of the person's commercial
30 driver license because the person has taken an appeal, unless the conviction is reversed on appeal.

31 **SECTION 19.** ORS 810.375 is amended to read:

32 810.375. (1) The judge or clerk of every court of this state having jurisdiction of any traffic of-
33 fense, including all local and municipal judicial officers in this state:

34 (a) Shall keep a full record of every case in which a person is charged with any such offense.

35 (b) Shall send the Department of Transportation an abstract of conviction for any person who
36 is convicted.

37 (c) Shall send the department a copy of any final judgment of conviction of any person which
38 results in mandatory suspension or revocation of driving privileges or commercial driver license
39 under ORS 809.407, 809.409, 809.411, 809.413, 813.400 or 813.403 **or section 13 of this 2005 Act**.

40 (d) Shall send the department a copy of any final judgment finding a person charged with a
41 traffic offense guilty except for insanity and committed to the jurisdiction of the Psychiatric Security
42 Review Board.

43 (2) The department shall keep such records in its office, and they shall be open to the inspection
44 of any person during reasonable business hours.

45 (3) To comply with this section, a judge or clerk must comply with the following:

1 (a) Any information required by this section to be sent to the department must be sent within
 2 the time provided under ORS 810.370 and must include information required by ORS 810.370.

3 (b) Information shall not be sent to the department under this section concerning convictions
 4 excluded from ORS 810.370.

5 **SECTION 20.** ORS 811.182 is amended to read:

6 811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the
 7 person violates ORS 811.175 and the suspension or revocation is one described in this section, or if
 8 the hardship or probationary permit violated is based upon a suspension or revocation described in
 9 subsection (3) or (4) of this section.

10 (2) Affirmative defenses to the offense described in this section are established under ORS
 11 811.180.

12 (3) The crime is a Class B felony if the suspension or revocation resulted from any degree of
 13 murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a
 14 motor vehicle or if the revocation resulted from a conviction for felony driving while under the in-
 15 fluence of intoxicants.

16 (4) The crime is a Class A misdemeanor if the suspension or revocation is any of the following:

17 (a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree
 18 of recklessly endangering another person, menacing or criminal mischief, resulting from the opera-
 19 tion of a motor vehicle.

20 (b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit
 21 to the Department of Transportation.

22 (c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS
 23 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content
 24 of:

25 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

26 (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

27 (C) Any amount if the person was under 21 years of age.

28 (d) A suspension of a commercial driver license under ORS 809.413 [(2)] (1) resulting from failure
 29 to perform the duties of a driver under ORS 811.700 while driving a commercial motor vehicle.

30 (e) A suspension of a commercial driver license under ORS [809.400 (3)(b)] **809.413 (12)** where
 31 the person's commercial driving privileges have been suspended or revoked by the other jurisdiction
 32 for failure of or refusal to take a chemical test to determine the alcoholic content of the person's
 33 blood under a statute that is substantially similar to ORS 813.100.

34 **(f) A suspension of a commercial driver license under section 13 of this 2005 Act.**

35 [(f)] **(g)** A revocation resulting from habitual offender status under ORS 809.640.

36 [(g)] **(h)** A suspension resulting from any crime punishable as a felony with proof of a material
 37 element involving the operation of a motor vehicle, other than a crime described in subsection (3)
 38 of this section.

39 [(h)] **(i)** A suspension for failure to perform the duties of a driver under ORS 811.705.

40 [(i)] **(j)** A suspension for reckless driving under ORS 811.140.

41 [(j)] **(k)** A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

42 [(k)] **(L)** A suspension or revocation resulting from misdemeanor driving while under the influ-
 43 ence of intoxicants under ORS 813.010.

44 [(L)] **(m)** A suspension for use of a commercial motor vehicle in the commission of a crime
 45 punishable as a felony.

1 (5) In addition to any other sentence that may be imposed, if a person is convicted of the offense
 2 described in this section and the underlying suspension resulted from driving while under the influ-
 3 ence of intoxicants, the court shall impose a fine of at least \$1,000 if it is the person's first con-
 4 viction for criminal driving while suspended or revoked and at least \$2,000 if it is the person's
 5 second or subsequent conviction.

6 (6) The Oregon Criminal Justice Commission shall classify a violation of this section that is a
 7 felony as crime category 6 of the rules of the Oregon Criminal Justice Commission.

8
 9 **SUSPENSION OF COMMERCIAL DRIVER LICENSE**

10
 11 **SECTION 21.** ORS 809.413 is amended to read:

12 809.413. *[(1) Upon receipt of a record of conviction of an offense described in this section, or upon*
 13 *notice of violation of an out-of-service order as provided in this section, the Department of Transpor-*
 14 *tation shall suspend the commercial driver license of the person convicted of the offense or found to*
 15 *have violated the order. A person is entitled to administrative review under ORS 809.440 of a suspen-*
 16 *sion under this section.]*

17 *[(2) The department shall take action under subsection (1) of this section upon receipt of a record*
 18 *of conviction under ORS 811.700 or 811.705 of failure to perform the duties of a driver while operating*
 19 *a commercial motor vehicle or upon receipt of any record of conviction of a crime punishable as a fel-*
 20 *ony involving the operation of a commercial motor vehicle. A suspension under this subsection shall*
 21 *be for a period of time according to the following:]*

22 *[(a) If the person's commercial driver license has not previously been suspended under this sub-*
 23 *section or ORS 809.411 (2) or 813.403, and the person was not driving a commercial motor vehicle*
 24 *containing a hazardous material at the time the offense was committed, the suspension shall be for a*
 25 *period of one year.]*

26 *[(b) If the person's commercial driver license has not previously been suspended under this sub-*
 27 *section or ORS 809.411 (2) or 813.403 and the person was driving a commercial motor vehicle con-*
 28 *taining a hazardous material at the time the offense was committed, the suspension shall be for a*
 29 *period of three years.]*

30 *[(c) If the person's commercial driver license has previously been suspended under this subsection*
 31 *or ORS 809.411 (2) or 813.403, the suspension shall be for the lifetime of the person.]*

32 *[(3) The department shall take action under subsection (1) of this section upon receipt of a record*
 33 *of conviction of a crime punishable as a felony that involves the manufacturing, distributing or dis-*
 34 *persing of a controlled substance and in which a commercial motor vehicle was used. A suspension*
 35 *under this subsection shall be for the lifetime of the person. As used in this subsection, "controlled*
 36 *substance" has the meaning given that term in ORS 475.005 (6).]*

37 *[(4) The department shall take action under subsection (1) of this section upon receipt of a record*
 38 *of a person's second conviction of a serious traffic violation within a three-year period if the convictions*
 39 *arose out of separate incidents. A suspension under this subsection shall be for a period of 60 days.]*

40 *[(5) The department shall take action under subsection (1) of this section upon receipt of a record*
 41 *of a person's third or subsequent conviction of a serious traffic violation within a three-year period if*
 42 *the convictions arose out of separate incidents. A suspension under this subsection shall be for a period*
 43 *of 120 days.]*

44 *[(6)(a) For purposes of this subsection and subsections (7), (8) and (9) of this section, "notice" in-*
 45 *cludes, but is not necessarily limited to, a record of conviction and a record of a determination by a*

1 state or federal agency with jurisdiction to make such determinations that the person has violated an
2 out-of-service order or notice.]

3 [(b) Except as otherwise provided in subsection (7) of this section, the department shall take action
4 under subsection (1) of this section upon receipt of a first notice indicating that a person has violated
5 an out-of-service order issued under ORS 813.050 or has knowingly violated any other out-of-service
6 order or notice. A suspension under this subsection shall be for a period of 90 days.]

7 [(7) The department shall take action under subsection (1) of this section upon receipt of a first
8 notice indicating that a person has violated an out-of-service order while transporting hazardous ma-
9 terials required to be placarded or while operating a motor vehicle designed to transport 16 or more
10 persons, including the driver. A suspension under this subsection shall be for a period of one year.]

11 [(8) Except as otherwise provided in subsection (9) of this section, the department shall take action
12 under subsection (1) of this section upon receipt of a second or subsequent notice within a 10-year pe-
13 riod indicating that a person has violated an out-of-service order issued under ORS 813.050 or has
14 knowingly violated any other out-of-service order or notice. A suspension under this subsection shall
15 be for a period of three years.]

16 [(9) The department shall take action under subsection (1) of this section upon receipt of a second
17 or subsequent notice within a 10-year period indicating that a person has violated an out-of-service or-
18 der if the person was transporting hazardous materials required to be placarded or was operating a
19 motor vehicle designed to transport 16 or more persons, including the driver, regardless of the load or
20 kind of vehicle involved in the first notice. A suspension under this subsection shall be for a period
21 of five years.] **Subject to administrative review under ORS 809.440, the Department of Trans-**
22 **portation shall suspend the commercial driver license of a person when the department re-**
23 **ceives:**

24 **(1) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties**
25 **of a driver while operating a motor vehicle or a commercial motor vehicle. A conviction**
26 **under this subsection shall result in:**

27 **(a) A suspension for a period of one year if:**

28 **(A) The person has not previously been convicted of an offense described in section 13**
29 **of this 2005 Act or had a commercial driver license suspended as the result of a final order**
30 **as described in section 13 of this 2005 Act; and**

31 **(B) The person was not driving a commercial motor vehicle containing a hazardous ma-**
32 **terial at the time of the offense.**

33 **(b) A suspension for a period of three years if:**

34 **(A) The person has not previously been convicted of an offense described in section 13**
35 **of this 2005 Act or had a commercial driver license suspended as the result of a final order**
36 **as described in section 13 of this 2005 Act; and**

37 **(B) The person was driving a commercial motor vehicle containing a hazardous material**
38 **at the time of the offense.**

39 **(c) Suspension of the commercial driver license for the lifetime of the person if the per-**
40 **son has previously been convicted of an offense described in section 13 of this 2005 Act or**
41 **had a commercial driver license suspended as the result of a final order as described in**
42 **section 13 of this 2005 Act.**

43 **(2) A record of conviction of a crime punishable as a felony involving the operation of a**
44 **motor vehicle or a commercial motor vehicle, other than the felony described in subsection**
45 **(3) of this section. A conviction under this subsection shall result in:**

1 (a) A suspension for a period of one year if:

2 (A) The person has not previously been convicted of an offense described in section 13
3 of this 2005 Act or had a commercial driver license suspended as the result of a final order
4 as described in section 13 of this 2005 Act; and

5 (B) The person was not driving a commercial motor vehicle containing a hazardous ma-
6 terial at the time of the offense.

7 (b) A suspension for a period of three years if:

8 (A) The person has not previously been convicted of an offense described in section 13
9 of this 2005 Act or had a commercial driver license suspended as the result of a final order
10 as described in section 13 of this 2005 Act; and

11 (B) The person was driving a commercial motor vehicle containing a hazardous material
12 at the time of the offense.

13 (c) Suspension of the commercial driver license for the lifetime of the person if the per-
14 son has previously been convicted of an offense described in section 13 of this 2005 Act or
15 had a commercial driver license suspended as the result of a final order as described in
16 section 13 of this 2005 Act.

17 (3) A record of conviction of a crime punishable as a felony that involves the manufac-
18 turing, distributing or dispensing of a controlled substance, as defined in ORS 475.005, and
19 in which a motor vehicle or commercial motor vehicle was used. A conviction under this
20 subsection shall result in a lifetime suspension of the person's commercial driving license.

21 (4) A record of conviction for driving a commercial motor vehicle while, as a result of
22 prior violations committed while operating a commercial motor vehicle, the commercial
23 driver license of the driver had been suspended or revoked. A conviction under this sub-
24 section shall result in:

25 (a) A suspension for a period of one year if:

26 (A) The person has not previously been convicted of an offense described in section 13
27 of this 2005 Act or had a commercial driver license suspended as the result of a final order
28 as described in section 13 of this 2005 Act; and

29 (B) The person was not driving a commercial motor vehicle containing a hazardous ma-
30 terial at the time of the offense.

31 (b) A suspension for a period of three years if:

32 (A) The person has not previously been convicted of an offense described in section 13
33 of this 2005 Act or had a commercial driver license suspended as the result of a final order
34 as described in section 13 of this 2005 Act; and

35 (B) The person was driving a commercial motor vehicle containing a hazardous material
36 at the time of the offense.

37 (c) Suspension of the commercial driver license for the lifetime of the person if the per-
38 son has previously been convicted of an offense described in section 13 of this 2005 Act or
39 had a commercial driver license suspended as the result of a final order as described in
40 section 13 of this 2005 Act.

41 (5) A record of conviction of any degree of murder, manslaughter or criminally negligent
42 homicide resulting from the operation of a commercial motor vehicle or assault in the first
43 degree resulting from the operation of a commercial motor vehicle. A conviction under this
44 section shall result in:

45 (a) A suspension for a period of one year if:

1 (A) The person has not previously been convicted of an offense described in section 13
2 of this 2005 Act or had a commercial driver license suspended as the result of a final order
3 as described in section 13 of this 2005 Act; and

4 (B) The person was not driving a commercial motor vehicle containing a hazardous ma-
5 terial at the time of the offense.

6 (b) A suspension for a period of three years if:

7 (A) The person has not previously been convicted of an offense described in section 13
8 of this 2005 Act or had a commercial driver license suspended as the result of a final order
9 as described in section 13 of this 2005 Act; and

10 (B) The person was driving a commercial motor vehicle containing a hazardous material
11 at the time of the offense.

12 (c) Suspension of the commercial driver license for the lifetime of the person if the per-
13 son has previously been convicted of an offense described in section 13 of this 2005 Act or
14 had a commercial driver license suspended as the result of a final order as described in
15 section 13 of this 2005 Act.

16 (6) A record of conviction of a serious traffic violation if the conviction occurred within
17 three years of a previous conviction for a serious traffic violation and if the convictions
18 arose out of separate incidents. A suspension under this subsection shall be:

19 (a) For a period of 60 days if the conviction is the person's second conviction for a serious
20 traffic violation within the three-year period.

21 (b) For a period of 120 days if the conviction is the person's third or subsequent con-
22 viction for a serious traffic violation within the three-year period.

23 (7) Notification that a person violated an out-of-service order issued under ORS 813.050
24 or has knowingly violated any other out-of-service order or notice. Notification under this
25 subsection may include, but not be limited to, a record of conviction and a record of a de-
26 termination by a state or federal agency with jurisdiction to make a determination that the
27 person has violated an out-of-service order or notice. A suspension under this subsection
28 shall be:

29 (a) Except as provided in paragraph (b) of this subsection, for a period of 90 days if the
30 notification relates to the person's first violation of an out-of-service order or notice.

31 (b) For a period of one year if the notification relates to the person's first violation of
32 an out-of-service order or notice and the person committed the violation while transporting
33 hazardous materials required to be placarded or while operating a motor vehicle designed to
34 transport 16 or more persons, including the driver.

35 (c) Except as provided in paragraph (d) of this subsection, for a period of three years if
36 the notification relates to a second or subsequent violation of an out-of-service notice or
37 order that occurred within a 10-year period.

38 (d) For a period of five years if the notification relates to a second or subsequent vio-
39 lation of an out-of-service notice or order that occurred within a 10-year period and the
40 person committed the violation while transporting hazardous materials required to be plac-
41 arded or was operating a motor vehicle designed to transport 16 or more persons, including
42 the driver, regardless of the load or kind of vehicle involved in the prior violation.

43 (8) Notification from the Federal Motor Carrier Safety Administration that a person in
44 this state who holds a commercial driver license in this state has been disqualified from op-
45 erating a commercial motor vehicle and that the disqualification is due to a determination

1 that the driving of that person constitutes an imminent hazard. A suspension under this
 2 subsection shall be made immediately and for the period prescribed by the Federal Motor
 3 Carrier Safety Administration, except that:

4 (a) Notwithstanding any disqualification hearings conducted by the Federal Motor Carrier
 5 Safety Administration, a suspension under this subsection is subject to a post-imposition
 6 hearing under ORS 809.440.

7 (b) Notwithstanding the period of suspension prescribed by the Federal Motor Carrier
 8 Safety Administration, a suspension under this subsection may not exceed one year.

9 (9) Notification from another jurisdiction that the person failed to appear on a citation
 10 for a traffic offense or for a violation in the other jurisdiction that, if committed in this
 11 state, would be grounds for suspension under ORS 809.220, and the person held a commercial
 12 driver license or was operating a commercial motor vehicle at the time of the offense. A
 13 suspension under this subsection:

14 (a) Shall end upon the earliest of five years from the date of suspension or upon notifi-
 15 cation by the other jurisdiction that the person appeared.

16 (b) Shall be placed on the person's driving record regardless of whether another juris-
 17 diction places the suspension on the person's driving record.

18 (c) May not be for a person's failure to appear on a parking, pedestrian or bicyclist of-
 19 fense.

20 (10) Notification from another jurisdiction that the person failed to pay a fine or obey an
 21 order of the court on a citation for a traffic offense or for a violation in the other jurisdiction
 22 that, if committed in this state, would be grounds for suspension under ORS 809.415 (4), and
 23 the person held a commercial driver license or was operating a commercial motor vehicle
 24 at the time of the offense. A suspension under this subsection:

25 (a) Shall end upon the earliest of five years from the date of suspension or upon notifi-
 26 cation by the other jurisdiction that the person paid the fine or obeyed the order of the
 27 court.

28 (b) Shall be placed on the person's driving record regardless of whether another juris-
 29 diction places the suspension on the person's driving record.

30 (c) May not be for a person's failure to pay a fine or obey an order of the court on a
 31 parking, pedestrian or bicyclist offense.

32 (11) A record of conviction from another jurisdiction of an offense that, if committed in
 33 this state, would be grounds for the suspension of the person's commercial driver license.
 34 The period of suspension under this subsection shall be the same as would be imposed on the
 35 person if the conviction were for an offense committed in this state.

36 (12) Notification from another jurisdiction that a person who is a resident of this state
 37 and who holds a commercial driver license has had commercial driving privileges suspended
 38 or revoked in another jurisdiction for reasons that would be grounds for suspension of the
 39 person's commercial driver license in this state. The period of suspension under this sub-
 40 section shall be the same as would be imposed on the person if the violation were committed
 41 in this state.

42 **SECTION 22.** The amendments to ORS 809.413 by section 21 of this 2005 Act that enhance
 43 penalty provisions based on additional prior offenses apply only to offenses committed on or
 44 after the effective date of this 2005 Act.

45 **SECTION 23.** ORS 801.477 is amended to read:

1 801.477. "Serious traffic violation" means:

2 (1) **A violation, while operating a motor vehicle and holding a commercial driver license,**
 3 **of ORS 811.140, reckless driving.**

4 (2) A violation, while operating a commercial motor vehicle, of:

5 [(1)] (a) Any law establishing a speed limit, if the person is operating the vehicle 15 miles per
 6 hour or more above the posted limit.

7 [(2)] (b) The basic speed rule established in ORS 811.100 if the person is operating the vehicle
 8 15 miles per hour or more above the speeds established in ORS 811.105 as prima facie evidence of
 9 violation of the basic speed rule.

10 (c) **ORS 807.010 (1), vehicle operating without driving privileges.**

11 (d) **ORS 807.570, failure to carry a license or to present a license to a police officer.**

12 [(3)] (e) ORS 811.140, reckless driving.

13 [(4)] (f) ORS 811.305, driving on the left on a curve or grade or at an intersection or rail
 14 crossing.

15 [(5)] (g) ORS 811.370, failure to drive within a lane.

16 [(6)] (h) ORS 811.410, unsafe passing on the left.

17 [(7)] (i) ORS 811.415, unsafe passing on the right.

18 [(8)] (j) ORS 811.485, following too closely.

19 [(9)] (k) Any law relating to motor vehicle traffic control if the violation is connected to a fatal
 20 accident. This *[subsection]* **paragraph** does not apply to violations of parking laws or laws regulating
 21 vehicle weight or equipment.

22 [(10)] *A notice issued by any duly authorized representative of the Department of Transportation*
 23 *requiring either a driver or a vehicle to be taken out of service.]*

24 [(11)] (L) Any law of another jurisdiction that corresponds to an Oregon law described in this
 25 section.

26 **SECTION 24.** ORS 809.400 is amended to read:

27 809.400. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the Department
 28 of Transportation may suspend or revoke the driving privileges of any resident of this state upon
 29 receiving notice of the conviction of such person in another jurisdiction of an offense therein that,
 30 if committed in this state, would be grounds for the suspension or revocation of the driving privi-
 31 leges of the person. A suspension or revocation under this subsection shall be initiated within 30
 32 days of receipt of notice of the conviction. Violation of a suspension or revocation imposed under
 33 this subsection shall have the same legal effects and consequences as it would if the offense com-
 34 mitted in the other jurisdiction had been committed in this jurisdiction.

35 (b) The department may not suspend or revoke driving privileges under this subsection unless
 36 notice of conviction is received within 180 days of the date of the conviction.

37 (2) The department may suspend or revoke the driving privileges of any resident of this state
 38 upon receiving notice from another state, territory, federal possession or district or province of
 39 Canada that the person's driving privileges in that jurisdiction have been suspended or revoked.
 40 Violation of the suspension or revocation shall have the same legal effects and consequences as it
 41 would if the suspension or revocation had been imposed initially in this state upon the same
 42 grounds. The suspension or revocation under this subsection shall continue until the person sus-
 43 pended or revoked furnishes evidence of any of the following:

44 (a) Compliance with the law of the other jurisdiction or the restoration of driving privileges in
 45 that jurisdiction.

1 (b) That the revocation or suspension in the other jurisdiction was not under circumstances that
 2 would require the department to suspend or revoke the driving privileges of the person under the
 3 laws of this state.

4 [(3)(a) *The department may suspend the commercial driver license of a resident of this state upon*
 5 *receiving notice of the conviction of such person in another jurisdiction of an offense therein that, if*
 6 *committed in this state, would be grounds for the suspension of the person's commercial driver license.*
 7 *The period of suspension under this paragraph shall be the same as would be imposed on the person*
 8 *if the conviction were for an offense committed in this state.*]

9 [(b) *The department may suspend the commercial driver license of a resident of this state upon*
 10 *receiving notice that the person's commercial driving privileges have been suspended or revoked in*
 11 *another jurisdiction for reasons that would be grounds for suspension of the person's commercial driver*
 12 *license in this state. The period of suspension under this paragraph shall be the same as would be*
 13 *imposed on the person if the violation were committed in this state.*]

14 [(4)] (3) A person is entitled to administrative review of a suspension under this section.

15
 16 **DRIVING WHILE UNDER THE INFLUENCE OF INTOXICANTS**
 17 **BY PERSON HOLDING COMMERCIAL DRIVER LICENSE**
 18

19 **SECTION 25.** ORS 813.404 is amended to read:

20 813.404. When the Department of Transportation imposes a suspension of a commercial driver
 21 license under ORS 813.403 or 813.410 (2), or when the department imposes a suspension of a com-
 22 mercial driver license under ORS [809.400 (3)] **809.413 (11) or (12)** for conduct in another jurisdic-
 23 tion that is substantially similar to that described in either ORS 813.403 or 813.410 (2), the
 24 suspension shall be [for a period of time determined according to the following]:

25 [(1) *If the person's commercial driver license has not previously been suspended under ORS 809.413*
 26 *(2), 813.403 or 813.410 (2) or under ORS 809.400 (3) for anything other than a serious traffic violation,*
 27 *and:*]

28 [(a) *The person was not driving a commercial motor vehicle containing a hazardous material and*
 29 *the suspension is for refusal of a test under ORS 813.100, the suspension shall be for a period of three*
 30 *years.*]

31 [(b) *The person was not driving a commercial motor vehicle containing a hazardous material and*
 32 *the suspension is either because the person was convicted under ORS 813.010 or because a breath or*
 33 *blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that*
 34 *was 0.04 percent or more by weight, the suspension shall be for a period of one year.*]

35 [(c) *The person was driving a commercial motor vehicle containing a hazardous material and the*
 36 *suspension is for refusal of a test under ORS 813.100, the suspension shall be for a period of five*
 37 *years.*]

38 [(d) *The person was driving a commercial motor vehicle containing a hazardous material and the*
 39 *suspension is either because the person was convicted under ORS 813.010 or because a breath or blood*
 40 *test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that was*
 41 *0.04 percent or more by weight, the suspension shall be for a period of three years.*]

42 [(2) *If the person's commercial driver license has previously been suspended under ORS 809.413*
 43 *(2), 813.403 or 813.410 (2), or has been suspended under ORS 809.400 (3) for something other than a*
 44 *serious traffic violation, the suspension shall be for the lifetime of the person. For purposes of this*
 45 *subsection, a suspension is not a previous suspension if it arose from the same occurrence as the cur-*

1 *rent suspension.]*

2 (1) For a period of one year if:

3 (a) The person has not previously been convicted of an offense described in section 13 of
4 this 2005 Act or had a commercial driver license suspended as the result of a final order as
5 described in section 13 of this 2005 Act;

6 (b) The person was not driving a commercial motor vehicle containing a hazardous ma-
7 terial at the time of the offense; and

8 (c) The suspension is either because the person was convicted under ORS 813.010 or be-
9 cause a breath or blood test under ORS 813.100 disclosed that the person had a level of al-
10 cohool in the person's blood that was 0.04 percent or more by weight.

11 (2) For a period of three years if:

12 (a) The person has not previously been convicted of an offense described in section 13 of
13 this 2005 Act or had a commercial driver license suspended as the result of a final order as
14 described in section 13 of this 2005 Act;

15 (b) The person was not driving a commercial motor vehicle containing a hazardous ma-
16 terial at the time of the offense; and

17 (c) The suspension is for refusal of a test under ORS 813.100.

18 (3) For a period of three years if:

19 (a) The person has not previously been convicted of an offense described in section 13 of
20 this 2005 Act or had a commercial driver license suspended as the result of a final order as
21 described in section 13 of this 2005 Act;

22 (b) The person was driving a commercial motor vehicle containing a hazardous material
23 at the time of the offense; and

24 (c) The suspension is either because the person was convicted under ORS 813.010 or be-
25 cause a breath or blood test under ORS 813.100 disclosed that the person had a level of al-
26 cohool in the person's blood that was 0.04 percent or more by weight.

27 (4) For a period of five years if:

28 (a) The person has not previously been convicted of an offense described in section 13 of
29 this 2005 Act or had a commercial driver license suspended as the result of a final order as
30 described in section 13 of this 2005 Act;

31 (b) The person was driving a commercial motor vehicle containing a hazardous material
32 at the time of the offense; and

33 (c) The suspension is for refusal of a test under ORS 813.100.

34 (5) For the lifetime of the person if the person has previously been convicted of an of-
35 fense described in section 13 of this 2005 Act or had a commercial driver license suspended
36 as the result of a final order as described in section 13 of this 2005 Act.

37 **SECTION 26.** The amendments to ORS 813.404 by section 25 of this 2005 Act that enhance
38 penalty provisions based on additional prior offenses apply only to those offenses committed
39 on or after the effective date of this 2005 Act.

40 **SECTION 27.** ORS 813.410 is amended to read:

41 813.410. (1) If the Department of Transportation receives from a police officer a report that is
42 in substantial compliance with ORS 813.120, the department shall suspend the driving privileges of
43 the person in this state on the 30th day after the date of arrest or, if the report indicates that the
44 person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described
45 under this section, the department determines that the suspension would not be valid as described

1 in this section. A suspension of driving privileges imposed under this subsection shall be for a period
2 of time established under ORS 813.420.

3 (2) If the department receives from a police officer a report pursuant to ORS 813.120 that dis-
4 closes that the person **holds a commercial driver license and that the person** was driving a
5 **motor vehicle or** commercial motor vehicle and refused to submit to a test under ORS 813.100 or
6 **that the person was driving a commercial motor vehicle and** submitted to a breath or blood test
7 and the person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol, the
8 department shall suspend the person's commercial driver license on the 30th day after the date of
9 arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt
10 of the report, unless, at a hearing described under this section, the department determines that the
11 suspension would not be valid as described in this section. A commercial driver license suspension
12 imposed under this subsection shall be for a period of time established under ORS 813.404.

13 (3) If within 10 days from the date of arrest, or, if the person fails a blood test, within 10 days
14 from the date the department sends notice of suspension, the department receives a written request
15 for a hearing from a person whose driving privileges or commercial driver license the department
16 proposes to suspend under this section, the department shall provide a hearing in accordance with
17 this section. Except as otherwise provided under this section, a hearing held by the department
18 under this section shall be subject to the provisions for contested cases, other than appeal pro-
19 visions, under ORS chapter 183. The applicable appeal provisions are as provided under ORS 813.450
20 and section 24, chapter 672, Oregon Laws 1985. Notwithstanding ORS 809.430, the department is not
21 required to give any notice of intent to suspend or suspension in addition to that provided under
22 ORS 813.100.

23 (4) A hearing required by this section is subject to all of the following:

24 (a) The hearing shall be before an administrative law judge assigned from the Office of Admin-
25 istrative Hearings established under ORS 183.605.

26 (b) Unless there is an agreement between the person and the department that the hearing be
27 conducted elsewhere, the hearing shall be held either in the county where the alleged offense oc-
28 curred or at any place within 100 miles of the place where the offense is alleged to have occurred,
29 as established by the department by rule.

30 (c) The department may authorize the administrative law judge to issue a final order in any
31 case.

32 (d) A person who requests a hearing under this section and who fails, without just cause, to
33 appear in person or through an attorney waives the right to a hearing notwithstanding the pro-
34 visions of ORS 183.415. If a person waives a right to a hearing under this paragraph, the department
35 is not required to make any showing at hearing.

36 (e) Except as provided in ORS 813.440 or upon remand under ORS 813.450, the department shall
37 hold the hearing and issue a final order within 30 days of the date of the arrest or, if the person fails
38 a blood test, within 60 days from the date the department received the report of the failure.

39 (f) In connection with the hearing, the department or its authorized representative may admin-
40 ister oaths and shall issue subpoenas for the attendance of witnesses at the hearing requested by
41 the person or the department and the production of relevant documents.

42 (g) The hearing shall be recorded by whatever means may be determined by the department and
43 shall include testimony and exhibits, if any. The record of the proceedings shall not be transcribed
44 unless requested by a party to the proceeding.

45 (5) This subsection shall be narrowly construed so as to effect the legislative purpose of limiting

1 the scope of hearings under this section. The scope of a hearing under this section shall be limited
 2 to whether the suspension is valid as described in this subsection. A suspension under this section
 3 is valid if all of the following requirements have been met:

4 (a) The person, at the time the person was requested to submit to a test under ORS 813.100,
 5 was under arrest for driving while under the influence of intoxicants in violation of ORS 813.010 or
 6 a municipal ordinance.

7 (b) The police had reasonable grounds to believe, at the time the request was made, that the
 8 person arrested had been driving under the influence of intoxicants in violation of ORS 813.010 or
 9 of a municipal ordinance.

10 (c) The person refused a test under ORS 813.100, or took a breath or blood test and the test
 11 disclosed that the level of alcohol in the person's blood at the time of the test was:

12 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

13 (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

14 (C) Any amount if the person was under 21 years of age.

15 (d) If the report under ORS 813.120 indicates that the person was driving a commercial motor
 16 vehicle, the vehicle was in fact a commercial motor vehicle as defined in ORS 801.208.

17 (e) The person had been informed under ORS 813.100 of rights and consequences as described
 18 under ORS 813.130.

19 (f) The person was given written notice required under ORS 813.100.

20 (g) If the person arrested submitted to a test under ORS 813.100, the person administering the
 21 test was qualified to administer the test under ORS 813.160.

22 (h) If the person arrested submitted to a test under ORS 813.100, the methods, procedures and
 23 equipment used in the test complied with requirements under ORS 813.160.

24 (6) A suspension imposed under this section shall remain in effect pending any appeal or remand
 25 of a final order issued under this section and there shall be no stay of the suspension pending appeal
 26 or remand.

27 (7) Unless a person fails, without just cause, to appear in person or through an attorney at a
 28 hearing requested under this section, a person shall have the right to appeal any final order by the
 29 department after a hearing under this section by filing a petition. The following apply to this sub-
 30 section:

31 (a) The person shall file the petition in the circuit court for the county where the person resides
 32 or, if the person does not reside in Oregon, in the circuit court of the county in which the arrest
 33 took place within 30 days after issuance of the final order of the department.

34 (b) The court upon receipt of the petition shall set the matter for hearing upon 10 days' notice
 35 to the department and the petitioner unless hearing is waived by both the department and the
 36 petitioner.

37 **SECTION 28.** ORS 813.130 is amended to read:

38 813.130. This section establishes the requirements for information about rights and consequences
 39 for purposes of ORS 813.100 and 813.410. The following apply to the information about rights and
 40 consequences:

41 (1) The information about rights and consequences shall be substantially in the form prepared
 42 by the Department of Transportation. The department may establish any form [it] **the department**
 43 determines appropriate and convenient.

44 (2) The information about rights and consequences shall be substantially as follows:

45 (a) Driving under the influence of intoxicants is a crime in Oregon, and the person is subject

1 to criminal penalties if a test under ORS 813.100 shows that the person is under the influence of
2 intoxicants. If the person refuses a test or fails, evidence of the refusal or failure may also be offered
3 against the person.

4 (b) The person will fail a test under ORS 813.100 for purposes of criminal penalties if the test
5 discloses a blood alcohol content of 0.08 percent or more by weight. The person will fail a test for
6 purposes of the Motorist Implied Consent Law if the test discloses a blood alcohol content of:

7 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

8 (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

9 (C) Any amount if the person was under 21 years of age.

10 (c) If the person refuses or fails a test under ORS 813.100, the person's driving privileges will
11 be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will
12 not affect the suspension. The suspension will be substantially longer if the person refuses a test.

13 (d) If the person refuses a test or fails a breath test under ORS 813.100 and has an Oregon
14 driver license or permit, the license or permit will be taken immediately and, unless the person does
15 not currently have full valid driving privileges, a temporary driving permit will be issued to the
16 person.

17 (e) If the person refuses a test under ORS 813.100, the person will not be eligible for a hardship
18 permit for at least 90 days, and possibly for one year, depending on the person's driving record. The
19 person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on
20 the person's driving record.

21 (f) If the person refuses a breath test under ORS 813.100, the person is subject to a fine of at
22 least \$500 and not more than \$1,000.

23 (g) After taking a test under ORS 813.100, the person will have a reasonable opportunity, upon
24 request, for an additional chemical test for blood alcohol content to be performed at the person's
25 own expense by a qualified individual of the person's choosing.

26 (h) The person has a right to a hearing to challenge the validity of the suspension before the
27 suspension becomes effective. The person must make a written request to the department for such
28 a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended.
29 If the person loses at the hearing, the suspension will remain in effect during any court review of
30 the hearing.

31 (i) The following times:

32 (A) If the person is issued a temporary driving permit under ORS 813.100, the number of hours
33 before the driving permit will be effective and the number of days the permit will be effective.

34 (B) The number of days within which a person must request a hearing under ORS 813.410.

35 (C) The number of days within which a hearing under ORS 813.410 will be held.

36 *[(3) If the person is driving a commercial motor vehicle, the information about rights and conse-*
37 *quences shall include, in addition to the provisions of subsection (2) of this section, substantially the*
38 *following:]*

39 *[(a) If the person refuses a test under ORS 813.100 or submits to a breath or blood test and the*
40 *level of alcohol in the person's blood is 0.04 percent or more by weight, the person's commercial driver*
41 *license or right to apply for a commercial driver license will be suspended and no hardship permit*
42 *authorizing the person to drive a commercial motor vehicle will be issued. The suspension will be*
43 *substantially longer if the person refuses a test.]*

44 *[(b) The suspension of the person's commercial driver license or right to apply for a commercial*
45 *driver license will be for the person's lifetime if:]*

1 *[(A) The person refuses a test under ORS 813.100 or submits to a breath or blood test and the level*
 2 *of alcohol in the person's blood is 0.04 percent or more by weight; and]*

3 *[(B) The person's commercial driver license or right to apply for a commercial driver license has*
 4 *previously been suspended because the person was convicted of a crime punishable as a felony, of*
 5 *failure to perform the duties of a driver or of driving while under the influence of intoxicants or be-*
 6 *cause the person refused a previous test or submitted to a breath or blood test and the level of alcohol*
 7 *in the person's blood was 0.04 percent or more by weight.]*

8 **(3) In addition to the information about rights and consequences provided under sub-**
 9 **section (2) of this section, a person holding a commercial driver license and driving a com-**
 10 **mercial motor vehicle shall be informed that if the person submits to a breath or blood test**
 11 **and the test discloses that the level of alcohol in the person's blood is 0.04 percent or more**
 12 **by weight:**

13 **(a) The person's commercial driver license will be suspended for a period of at least one**
 14 **year, and the department will not issue a hardship permit authorizing the person to drive a**
 15 **commercial motor vehicle. The suspension will be substantially longer if the person refuses**
 16 **a test.**

17 **(b) The person's commercial driver license will be suspended for the person's lifetime if:**

18 **(A) The person is disqualified from holding a commercial driver license because the per-**
 19 **son failed to perform the duties of a driver, the person has been convicted of a crime**
 20 **punishable as a felony, the person's commercial driver license is already suspended or re-**
 21 **voked or the person has been convicted of any degree of murder, manslaughter or criminally**
 22 **negligent homicide resulting from the operation of a commercial motor vehicle; or**

23 **(B) The person's commercial driver license has previously been suspended or revoked for**
 24 **refusal to submit to a test under ORS 813.100 or for driving a motor vehicle while under the**
 25 **influence of intoxicants.**

26 **(4) In addition to the information about rights and consequences provided under sub-**
 27 **section (2) of this section, a person driving a commercial motor vehicle shall be informed**
 28 **that if the person refuses a test under ORS 813.100:**

29 **(a) The person's commercial driver license will be suspended for a period of at least one**
 30 **year or the person will be disqualified from applying for a commercial driver license for a**
 31 **period of at least one year, and the department will not issue a hardship permit authorizing**
 32 **the person to drive a commercial motor vehicle.**

33 **(b) The person's commercial driver license will be suspended for the person's lifetime if:**

34 **(A) The person is disqualified from holding a commercial driver license because the per-**
 35 **son failed to perform the duties of a driver, the person had been convicted of a crime**
 36 **punishable as a felony, the person's commercial driver license is already suspended or re-**
 37 **voked or the person has been convicted of any degree of murder, manslaughter or criminally**
 38 **negligent homicide resulting from the operation of a commercial motor vehicle; or**

39 **(B) The person's commercial driver license had previously been suspended or revoked for**
 40 **refusal to submit to a test under ORS 813.100 or for driving a motor vehicle while under the**
 41 **influence of intoxicants.**

42 *[(4)]* **(5) Nothing in this section prohibits the department from providing additional information**
 43 **concerning rights and consequences that the department considers convenient or appropriate.**

44 **SECTION 29.** ORS 813.215 is amended to read:

45 813.215. A defendant is eligible for diversion if:

1 (1) The defendant had no charge of an offense of driving while under the influence of intoxicants
 2 or its statutory counterpart in any jurisdiction, other than the charge for the present offense,
 3 pending on the date the defendant filed the petition for a driving while under the influence of
 4 intoxicants diversion agreement;

5 (2) The defendant has not been convicted of an offense described in subsection (1) of this section
 6 within the period beginning 10 years before the date of the commission of the present offense and
 7 ending on the date the defendant filed the petition for a driving while under the influence of
 8 intoxicants diversion agreement;

9 (3) The defendant was not participating in a driving while under the influence of intoxicants
 10 diversion program or in any similar alcohol or drug rehabilitation program, other than a program
 11 entered into as a result of the charge for the present offense, in this state or in any other jurisdic-
 12 tion on the date the defendant filed the petition for a driving while under the influence of
 13 intoxicants diversion agreement;

14 (4) The defendant did not participate in a diversion or rehabilitation program described in sub-
 15 section (3) of this section, other than a program entered into as a result of the charge for the
 16 present offense, within the period beginning 10 years before the date of the commission of the
 17 present offense and ending on the date the defendant filed the petition for a driving while under the
 18 influence of intoxicants diversion agreement;

19 (5) The defendant had no charge of an offense of murder, manslaughter, criminally negligent
 20 homicide or assault that resulted from the operation of a motor vehicle pending in this state or in
 21 any other jurisdiction on the date the defendant filed the petition for a driving while under the in-
 22 fluence of intoxicants diversion agreement;

23 (6) The defendant has not been convicted of an offense described in subsection (5) of this section
 24 within the period beginning 10 years before the date of the commission of the present offense and
 25 ending on the date the defendant filed the petition for a driving while under the influence of
 26 intoxicants diversion agreement; *[and]*

27 **(7) The defendant did not have a commercial driver license at the time of the offense;**

28 **(8) The defendant was not operating a commercial motor vehicle at the time of the of-**
 29 **fense; and**

30 *[(7)]* **(9) The present driving while under the influence of intoxicants offense did not involve an**
 31 **accident resulting in:**

32 (a) Death of any person other than the defendant; or

33 (b) Physical injury as defined in ORS 161.015 to any person other than the defendant.

34 **SECTION 30.** ORS 153.090 is amended to read:

35 153.090. (1) Judgments entered under this chapter may include:

36 (a) Imposition of a sentence to pay a fine;

37 (b) Costs, assessments and restitution authorized by law;

38 (c) A requirement that the fine, costs, assessments and restitution, if any, be paid out of any
 39 base fine;

40 (d) Remission of any balance of a base fine to the defendant or to any other person designated
 41 by the defendant; and

42 (e) Any other provision authorized by law.

43 (2) Notwithstanding ORS 137.106, if the court orders restitution in a default judgment entered
 44 under ORS 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions
 45 imposed, including restitution, and request a hearing to determine whether the defendant is unable

1 to pay or to establish a payment schedule by filing a written request with the court within one year
 2 after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability
 3 to pay upon receipt of the request and shall give notice to the district attorney. The district attor-
 4 ney shall give notice to the victim of the date, time and place of the hearing. The court may deter-
 5 mine a payment schedule for monetary sanctions imposed, including restitution ordered under this
 6 subsection, if the defendant establishes at the hearing that the defendant is unable to pay the or-
 7 dered restitution in full.

8 (3) If a trial is held in a violation proceeding, or a default judgment is entered against the de-
 9 fendant under ORS 153.102, the court may impose any fine within the statutory limits for the vio-
 10 lation. If a defendant pleads no contest under ORS 153.061 (2)(b), or pleads guilty under ORS 153.061
 11 (2)(c), and the court accepts the plea and enters judgment against the defendant, the amount of the
 12 fine imposed against the defendant by the court may not exceed the amount of the base fine estab-
 13 lished for the violation under ORS 153.125 to 153.145.

14 (4) A judge may suspend operation of any part of a judgment entered under this chapter upon
 15 condition that the defendant pay the nonsuspended portion of a fine within a specified period of
 16 time. If the defendant fails to pay the nonsuspended portion of the fine within the specified period
 17 of time, the suspended portion of the judgment becomes operative without further proceedings by the
 18 court and the suspended portion of the fine becomes immediately due and payable.

19 (5) The court may not recommend a suspension of the defendant's driving privileges unless a
 20 trial has been required. The failure of the defendant to appear at the trial does not prevent the
 21 court from recommending suspension of the defendant's driving privileges.

22 (6) Entry of a default judgment under ORS 153.102 does not preclude the arrest and prosecution
 23 of the defendant for the crime of failure to appear in a violation proceeding under ORS 153.992.

24 **(7) If a person holds a commercial driver license, a court may not defer entry of a judg-
 25 ment or allow an individual to enter into a diversion program that would prevent the con-
 26 viction, for any violation, in any type of motor vehicle, of a traffic control law from
 27 appearing on the driving record of the holder. For the purposes of this subsection, parking
 28 violations are not considered violations of traffic control law.**

29
 30 **HAZARDOUS MATERIALS ENDORSEMENT**

31
 32 **SECTION 31.** ORS 801.303 is amended to read:

33 801.303. "Hazardous materials" has the meaning given [for] that term in [section 103 of the
 34 *Hazardous Materials Transportation Act, 49 App. U.S.C. 1801 et seq.*] **49 C.F.R. 383.5, as in effect
 35 on the effective date of this 2005 Act.**

36 **SECTION 32.** Section 33 of this 2005 Act is added to and made a part of the Oregon Ve-
 37 hicle Code.

38 **SECTION 33.** (1) Notwithstanding ORS 807.170, the Department of Transportation may
 39 not issue or renew a commercial driver license with a hazardous materials endorsement, and
 40 may revoke a commercial driver license with a hazardous materials endorsement four years
 41 prior to the expiration of the license, if a person:

42 (a) Does not provide the department with fingerprints in a form and manner established
 43 by rule for a criminal records check. After the department receives the results of the
 44 criminal records check, the department shall destroy the fingerprint cards and shall retain
 45 no facsimiles or other materials from which a fingerprint can be reproduced.

1 **(b) Does not complete a hazardous materials endorsement and criminal background**
 2 **check application in a form prescribed by the department by rule.**

3 **(c) Does not provide proof that the person is a citizen of the United States or is a lawful**
 4 **permanent resident in the United States. Acceptable proof shall be defined by rule.**

5 **(d) Does not pay the fee for hazardous materials endorsement security check established**
 6 **in ORS 807.370.**

7 **(e) Is assessed as a security threat by the federal Transportation Security Adminis-**
 8 **tration. The assessment must be received by the department in the form of a notice from**
 9 **the federal Transportation Security Administration.**

10 **(2) A person is entitled to administrative review under ORS 809.440 when the department**
 11 **does not issue or renew a commercial driver license with a hazardous materials endorsement**
 12 **under this section.**

13 **SECTION 34. Section 33 of this 2005 Act applies to commercial driver licenses with haz-**
 14 **ardous materials endorsements that are issued or renewed on or after the effective date of**
 15 **this 2005 Act or that are due to expire within four years from a date that is on or after the**
 16 **effective date of this 2005 Act.**

17 **SECTION 35. ORS 807.280 is amended to read:**

18 807.280. The Department of Transportation shall provide for the issuance of instruction driver
 19 permits in a manner consistent with this section. A person who is issued an instruction driver per-
 20 mit may exercise the same driving privileges as those under the class of license or endorsement for
 21 which the permit is issued except as provided in this section or under the permit. Except as other-
 22 wise provided in this section, an instruction driver permit is subject to the fees, provisions, condi-
 23 tions, prohibitions and penalties applicable to a license or endorsement granting the same driving
 24 privileges. The following apply to an instruction driver permit:

25 (1) An instruction driver permit is subject to the same classifications and endorsements as a li-
 26 cense. The department may issue an instruction driver permit to grant the same driving privileges
 27 as a Class A commercial, Class B commercial, Class C commercial or Class C driver license or as
 28 a motorcycle endorsement, but the permit will also be subject to the provisions of this section.

29 (2) The department may issue an instruction driver permit to a person who is qualified to obtain
 30 the same driving privileges under the corresponding class of license or type of endorsement except
 31 for the person's age or lack of experience in the operation of motor vehicles subject to the following:

32 (a) An applicant must be 15 years of age or older to receive the same driving privileges as are
 33 granted under a Class C license.

34 (b) An applicant must be 16 years of age or older and have a commercial driver license or a
 35 Class C license to receive the same driving privileges as are granted under a motorcycle endorse-
 36 ment.

37 (c) An applicant must be 18 years of age or older to receive the same driving privileges as are
 38 granted under any class of license not otherwise provided for under this subsection.

39 (3) The only fee required for issuance of an instruction driver permit is the instruction driver
 40 permit issuance fee under ORS 807.370.

41 (4) A Class C instruction driver permit shall be valid for 24 months from the date of issuance.
 42 All other instruction driver permits issued under this section shall be valid for one year from the
 43 date of issuance. A permit issued under this section may not be renewed.

44 (5) The holder of the permit may not operate a motor vehicle unless the holder has the permit
 45 in the holder's immediate possession and is accompanied by a person with a class of license granting

1 the same driving privileges or a license with an endorsement granting the same driving privileges
 2 who is not less than 21 years of age. The accompanying person must be occupying a seat beside the
 3 holder of the permit unless the permit is for motorcycle driving privileges. For a permit granting
 4 motorcycle driving privileges, the holder of the permit must be in the company and under the
 5 supervision and visual observation of the accompanying person and the accompanying person must
 6 be operating a separate motorcycle. If the permit authorizes its holder to operate a commercial
 7 motor vehicle, the accompanying person must have a commercial driver license and the proper
 8 endorsements for the vehicle being operated by the holder of the permit. **The holder of the permit**
 9 **may not operate any motor vehicle transporting hazardous materials.**

10 (6) The holder of a permit granting motorcycle driving privileges is subject to the following in
 11 addition to any other requirements under this section:

12 (a) The holder may only operate a motorcycle during daylight hours.

13 (b) The holder may not carry any passengers on the motorcycle.

14 (c) The holder of the permit must wear an approved helmet while operating a motorcycle.

15 (7) The fee for issuance of a duplicate or replacement permit because of loss, destruction or
 16 mutilation of the permit is the permit replacement fee under ORS 807.370.

17 (8)(a) The department may issue an instruction driver permit to a person with a limited vision
 18 condition if a rehabilitation training specialist certifies to the department that the person has suc-
 19 cessfully completed a rehabilitation training program.

20 (b) As used in this subsection, “limited vision condition,” “rehabilitation training specialist” and
 21 “rehabilitation training program” have the meanings given those terms in section 2, chapter 277,
 22 Oregon Laws 2003.

23 (9) In addition to any other requirements under this section, the holder of a permit issued under
 24 subsection (8) of this section may operate a motor vehicle only:

25 (a) During daylight hours;

26 (b) On highways with a designated speed or speed limit not greater than 45 miles per hour; and

27 (c) When the holder is using a bioptic telescopic lens.

28 **SECTION 36.** ORS 807.280, as amended by section 12, chapter 277, Oregon Laws 2003, is
 29 amended to read:

30 807.280. The Department of Transportation shall provide for the issuance of instruction driver
 31 permits in a manner consistent with this section. A person who is issued an instruction driver per-
 32 mit may exercise the same driving privileges as those under the class of license or endorsement for
 33 which the permit is issued except as provided in this section or under the permit. Except as other-
 34 wise provided in this section, an instruction driver permit is subject to the fees, provisions, condi-
 35 tions, prohibitions and penalties applicable to a license or endorsement granting the same driving
 36 privileges. The following apply to an instruction driver permit:

37 (1) An instruction driver permit is subject to the same classifications and endorsements as a li-
 38 cense. The department may issue an instruction driver permit to grant the same driving privileges
 39 as a Class A commercial, Class B commercial, Class C commercial or Class C driver license or as
 40 a motorcycle endorsement, but the permit will also be subject to the provisions of this section.

41 (2) The department may issue an instruction driver permit to a person who is qualified to obtain
 42 the same driving privileges under the corresponding class of license or type of endorsement except
 43 for the person’s age or lack of experience in the operation of motor vehicles subject to the following:

44 (a) An applicant must be 15 years of age or older to receive the same driving privileges as are
 45 granted under a Class C license.

1 (b) An applicant must be 16 years of age or older and have a commercial driver license or a
2 Class C license to receive the same driving privileges as are granted under a motorcycle endorse-
3 ment.

4 (c) An applicant must be 18 years of age or older to receive the same driving privileges as are
5 granted under any class of license not otherwise provided for under this subsection.

6 (3) The only fee required for issuance of an instruction driver permit is the instruction driver
7 permit issuance fee under ORS 807.370.

8 (4) A Class C instruction driver permit shall be valid for 24 months from the date of issuance.
9 All other instruction driver permits issued under this section shall be valid for one year from the
10 date of issuance. A permit issued under this section may not be renewed.

11 (5) The holder of the permit may not operate a motor vehicle unless the holder has the permit
12 in the holder's immediate possession and is accompanied by a person with a class of license granting
13 the same driving privileges or a license with an endorsement granting the same driving privileges
14 who is not less than 21 years of age. The accompanying person must be occupying a seat beside the
15 holder of the permit unless the permit is for motorcycle driving privileges. For a permit granting
16 motorcycle driving privileges, the holder of the permit must be in the company and under the
17 supervision and visual observation of the accompanying person and the accompanying person must
18 be operating a separate motorcycle. If the permit authorizes its holder to operate a commercial
19 motor vehicle, the accompanying person must have a commercial driver license and the proper
20 endorsements for the vehicle being operated by the holder of the permit. **The holder of the permit
21 may not operate any motor vehicle transporting hazardous materials.**

22 (6) The holder of a permit granting motorcycle driving privileges is subject to the following in
23 addition to any other requirements under this section:

24 (a) The holder may only operate a motorcycle during daylight hours.

25 (b) The holder may not carry any passengers on the motorcycle.

26 (c) The holder of the permit must wear an approved helmet while operating a motorcycle.

27 (7) The fee for issuance of a duplicate or replacement permit because of loss, destruction or
28 mutilation of the permit is the permit replacement fee under ORS 807.370.

29
30 **UNIT CAPTIONS**

31
32 **SECTION 37. The unit captions used in this 2005 Act are provided only for the conven-**
33 **ience of the reader and do not become part of the statutory law of this state or express any**
34 **legislative intent in the enactment of this 2005 Act.**

35
36 **EMERGENCY CLAUSE**

37
38 **SECTION 38. This 2005 Act being necessary for the immediate preservation of the public**
39 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
40 **on its passage.**