

Enrolled Senate Bill 70

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Transportation)

CHAPTER

AN ACT

Relating to driving privileges; amending ORS 807.060, 807.090, 809.380, 809.419 and 813.520.

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

SECTION 1. ORS 807.060 is amended to read:

807.060. The Department of Transportation *[shall]* **may** not grant driving privileges to a person under a license if the person is not eligible under this section. The following are not eligible for a license:

(1) A person under 16 years of age.

(2)(a) A person under 18 years of age who is not an emancipated minor unless the application of the person is signed by the person's mother, father or guardian or, if the person has no father, mother or guardian, by the person's employer. A person who signs an application under this paragraph may have the driving privileges canceled as provided under ORS 809.320.

(b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

(3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible for a commercial driver license.

(4) A person that the department determines has a problem condition involving alcohol, inhalants or controlled substances as described under ORS 813.040.

[(5) A person the department reasonably believes is subject to any condition which brings about momentary or prolonged lapses of consciousness or control that is or may become chronic.]

[(6) A person the department reasonably believes has a physical or mental disability or disease serving to prevent the person from exercising reasonable and ordinary control over a motor vehicle while operating it upon the highways.]

(5) A person the department reasonably believes has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.

[(7)] **(6)** A person the department reasonably believes is unable to understand highway signs that warn, regulate or direct traffic.

[(8)] **(7)** A person who is required to make future responsibility filings but has not made filings as required.

[(9)] **(8)** A person who cannot be issued a license under the Driver License Compact under ORS 802.540.

[(10)] (9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose driving privileges are currently under suspension or revocation in any other state upon grounds which, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person.

[(11)] (10) A person who has been declared a habitual offender under ORS 809.640. A person declared not eligible to be licensed under this subsection may become eligible by having eligibility restored under ORS 809.640.

[(12)] (11) A person whose driving privileges are canceled in this state under ORS 809.310 until the person is eligible under ORS 809.310.

[(13)] (12) A person while the person's driving privileges are revoked in this state.

[(14)] (13) A person during a period when the person's driving privileges are suspended in this state.

[(15)] (14) A person who holds a current out-of-state license or driver permit or a valid Oregon license or driver permit. A person who is not eligible under this subsection may become eligible by surrendering the license, driver permit or out-of-state license or driver permit to the department before issuance of the license. Nothing in this subsection authorizes a person to continue to operate a motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS 807.062 to obtain an Oregon license or permit.

[(16)] (15) A person who has not complied with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530 authorizes the department to withhold issuance of a license.

SECTION 2. ORS 807.090 is amended to read:

807.090. (1) If the Department of Transportation determines that a person may be ineligible for a license because the person has a *[history of any physical or mental disease or disability that may impair the person's ability to safely operate]* **mental or physical condition or impairment that affects the person's ability to safely operate** a motor vehicle, the person may establish eligibility for a license, notwithstanding the *[disability or disease]* **mental or physical condition or impairment:**

(a) By personally demonstrating to the satisfaction of the department that, notwithstanding the *[disease or disability]* **mental or physical condition or impairment**, the person is qualified to safely operate a motor vehicle; or

(b) If the department reasonably believes that, notwithstanding the demonstration under paragraph (a) of this subsection, the person's *[disease or disability may impair the ability of the person to safely operate]* **mental or physical condition or impairment affects the person's ability to safely operate** a motor vehicle, by obtaining a certificate of eligibility from the State Health Officer under this section.

(2) The State Health Officer shall issue to the department a certificate of eligibility required under this section if an applicant for a certificate establishes to the satisfaction of the State Health Officer that the person's *[disease or disability does not impair the ability of the person to safely operate]* **mental or physical condition or impairment does not affect the person's ability to safely operate** a motor vehicle. The State Health Officer shall use the following to establish qualification for a certificate of eligibility under this subsection:

(a) A report *[submitted by the applicant]* from the applicant's physician, nurse practitioner or physician assistant of the applicant's condition **or impairment**.

(b) If the applicant's condition **or impairment** apparently involves only visual deficiencies, the department may require an applicant to submit a report from a licensed optometrist or a licensed physician who specializes in diagnosis and treatment of diseases of the eye.

(c) The State Health Officer may require an examination and a written report of findings and recommendations from a physician, nurse practitioner or physician assistant designated by the State Health Officer in addition to other reports submitted.

(3) If a person establishes eligibility for a license under this section by obtaining a certificate of eligibility, the department may require the person to reestablish eligibility at reasonable inter-

vals. The frequency of reestablishing eligibility under this subsection shall be established by the State Health Officer after reviewing recommendations from the physician, nurse practitioner or physician assistant of the person required to reestablish eligibility.

(4) The State Health Officer may enter into an agreement with any physician, nurse practitioner or physician assistant allowing the physician, nurse practitioner or physician assistant to perform the duties assigned to the State Health Officer by this section.

SECTION 3. ORS 809.380 is amended to read:

809.380. All of the following apply to a person whose driving privileges have been suspended:

(1) The period of suspension shall last as long as provided for that particular suspension by law.

(2) During the period of suspension, the person is not entitled to exercise any driving privileges in this state except as provided under this subsection. Unless otherwise specifically provided by law, a person whose driving privileges are suspended may obtain, if the person qualifies, a hardship driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

(3) Upon expiration of the suspension, the Department of Transportation shall reissue, upon request of the person, the suspended driving privileges and any license or driver permit that evidences the driving privileges. The reissuance shall be without requalification by the person except that the department may require the person to furnish evidence satisfactory to the department that the person is qualified to continue to exercise driving privileges in this state before the department reissues the driving privileges.

(4) The department [shall] **may** not issue any driving privileges in contradiction to this section.

(5) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are suspended, the person is subject to the penalties under ORS 809.500.

(6) No reinstatement of suspended driving privileges will be made by the department until the fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee for any of the following reasons:

(a) The suspension occurred under ORS 809.419 for failure to take an examination upon request of the department under ORS 807.340.

(b) The suspension occurred under ORS 809.419 for failure to obtain required medical clearance upon request of the department under ORS 807.070 or 807.090.

(c) The suspension occurred under ORS 809.419 for incompetence to drive a motor vehicle or having a mental or physical condition [*rendering it unsafe for a person to drive a motor vehicle.*] **or impairment that affects the person's ability to safely operate a motor vehicle.**

(d) The suspension occurred under ORS 809.419 upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive.

(e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity.

(f) The department committed an error in issuing the suspension.

(g) The suspension was the result of an error committed by an insurance company in issuing or failing to issue a certification of insurance or in canceling a certification of insurance filed with the department under ORS 806.270.

(h) The department issued the suspension without error because the person failed to respond as required under ORS 806.160 or to furnish proof of exemption under ORS 806.210 from the filing requirement of ORS 806.200, but the department later determines that the person in fact was in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150 or at the time of an accident described in ORS 806.200.

(i) The department issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department later determines that the person reasonably and in good faith believed that the person was in com-

pliance with financial responsibility requirements on the date of the department's letter of verification or at the time of the accident.

(j) The suspension was the result of an error committed by an insurance company in notifying the department regarding the correctness of a certification under ORS 806.150.

(k) The suspension occurred because the person failed to make future responsibility filings but the department later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the military orders must be prior to the effective date of a suspension issued by the department for failure to make a future responsibility filing.

SECTION 4. ORS 809.419 is amended to read:

809.419. (1)(a) The Department of Transportation shall suspend the driving privileges of a person if the department requests the person to submit to examination under ORS 807.340 and the person fails to appear within a reasonable length of time after being notified to do so or fails to satisfactorily complete the required examination. A suspension under this subsection shall continue until the examination required by the department is successfully completed.

(b) Upon suspension under this subsection, the department may issue an identification card to the person for identification purposes as described under ORS 807.400.

(2) The department shall suspend the driving privileges of a person if the department requests the person to obtain medical clearance under ORS 807.070 or 807.090 and the person fails to do so. The suspension under this subsection shall continue until the required medical clearance is received by the department.

(3)(a) The department may suspend the driving privileges of a person who is incompetent to drive a motor vehicle because of a mental or physical condition [*that makes it unsafe for the person to drive on the highways.*] **or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.**

(b) A suspension under this subsection shall continue for a period determined by the department and shall be subject to any conditions the department determines to be necessary.

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440, except that a person who is denied a certificate of eligibility under ORS 807.090 is entitled only to an administrative review under ORS 809.440 of the suspension.

(4)(a) Whenever the department has reason to believe an individual with a motorcycle endorsement under ORS 807.170 is incompetent to operate a motorcycle, the department may revoke the endorsement.

(b) Upon revocation under this subsection, the endorsed license shall be surrendered to the department.

(c) Upon surrender of the endorsed license, the department may issue a license without endorsement for the unexpired period of the license.

(5) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive, the department shall immediately suspend the driving privileges of the released person. A suspension under this subsection is subject to administrative review under ORS 809.440 and shall continue until such time as the person produces a judicial judgment of competency or a certificate from the superintendent of the hospital that the person is competent, or establishes eligibility under ORS 807.090.

(6) Upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity and committed to the jurisdiction of the Psychiatric Security Review Board, the department shall immediately suspend the driving privileges of the person. A suspension under this subsection is subject to administrative review under ORS 809.440 and shall continue until such time as the person establishes eligibility under ORS 807.090.

SECTION 5. ORS 813.520 is amended to read:

813.520. In addition to any provisions of ORS 807.240 and 813.510 or 807.250, this section establishes limitations on the authority of the Department of Transportation to issue driving privileges under ORS 807.240. The department may not reinstate any driving privileges or issue any hardship permit under ORS 807.240 as provided under any of the following:

(1) For a period of 90 days after the beginning of the suspension if the suspension is for refusal of a test under ORS 813.100 and the person is not subject to an increase in the time before a permit may be issued for reasons described in ORS 813.430. This period of 90 days shall be reduced by the time the department refused to issue a hardship permit under subsection (5) or (6) of this section if the person's driving privileges were suspended based on the same occurrence.

(2) For a period of 30 days after the beginning of the suspension if the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is not subject to an increase in the time before a hardship permit may be issued for reasons described in ORS 813.430. This period of 30 days shall be reduced by the time the department refused to issue a hardship permit under subsection (5) or (6) of this section if the person's driving privileges were suspended based on the same occurrence.

(3) For a period of one year after the beginning of the suspension if the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is subject to an increase in the time before a hardship permit may be issued for reasons described under ORS 813.430. This period of one year shall be reduced by the time the department refused to issue a hardship permit under subsection (5) or (6) of this section if the person's driving privileges were suspended based on the same occurrence.

(4) For a period of one year after the beginning of the suspension if the suspension is for refusal of a test under ORS 813.100 and the person is subject to an increase in the time before a hardship permit may be issued for reasons described in ORS 813.430. This period of one year shall be reduced by the time the department refused to issue a hardship permit under subsection (5) or (6) of this section if the person's driving privileges were suspended based on the same occurrence.

(5) For a period of 90 days after the beginning of the suspension under ORS 813.400 if it is the person's second conviction for driving while under the influence of intoxicants if the suspension period is determined by ORS 809.428 (2)(b). This period of 90 days shall be reduced by the time the department refused to issue a hardship permit under subsection (1), (2), (3) or (4) of this section if the person's driving privileges were suspended based on the same occurrence.

(6) For a period of one year after the beginning of the suspension under ORS 813.400 for driving while under the influence of intoxicants if the suspension period is determined by ORS 809.428 (2)(c). This period of one year shall be reduced by the time the department refused to issue a hardship permit under subsection (1), (2), (3) or (4) of this section if the person's driving privileges were suspended based on the same occurrence.

(7) To any person who has a mental or physical condition [*rendering it unsafe for the person to drive*] **or impairment that affects the person's ability to safely operate** a motor vehicle.

(8) If the suspension is based upon a conviction for a violation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100 to a person who has available public or private transportation sufficient to fulfill the person's transportation needs while the person is suspended.

(9) For a period of 30 days following imposition of suspension, if the person, within the previous year, has been convicted of a traffic crime and the suspension is based upon a conviction for violation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100.

Passed by Senate April 12, 2005

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Secretary of Senate

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President of Senate

Passed by House May 20, 2005

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Speaker of House

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State