

# Senate Bill 70

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## 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**.

Makes person ineligible for driving privileges if person is affected by mental or physical condition or impairment that affects person's ability to safely operate motor vehicle. Standardizes medical language related to driving privileges.

## A BILL FOR AN ACT

1  
2 Relating to driving privileges; amending ORS 807.060, 807.090, 809.380, 809.419 and 813.520.

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

4 **SECTION 1.** ORS 807.060 is amended to read:

5 807.060. The Department of Transportation [*shall*] **may** not grant driving privileges to a person  
6 under a license if the person is not eligible under this section. The following are not eligible for a  
7 license:

8 (1) A person under 16 years of age.

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

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

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

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

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

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

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

26 [(7)] **(6)** A person the department reasonably believes is unable to understand highway signs that  
27 warn, regulate or direct traffic.

28 [(8)] **(7)** A person who is required to make [future responsibility filings but has not made filings  
29 as required.

30 [(9)] **(8)** A person who cannot be issued a license under the Driver License Compact under ORS

**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.

1 802.540.

2 [(10)] (9) A person who is not subject to the Driver License Compact under ORS 802.540 but  
 3 whose driving privileges are currently under suspension or revocation in any other state upon  
 4 grounds which, if committed in this state, would be grounds for the suspension or revocation of the  
 5 driving privileges of the person.

6 [(11)] (10) A person who has been declared a habitual offender under ORS 809.640. A person  
 7 declared not eligible to be licensed under this subsection may become eligible by having eligibility  
 8 restored under ORS 809.640.

9 [(12)] (11) A person whose driving privileges are canceled in this state under ORS 809.310 until  
 10 the person is eligible under ORS 809.310.

11 [(13)] (12) A person while the person’s driving privileges are revoked in this state.

12 [(14)] (13) A person during a period when the person’s driving privileges are suspended in this  
 13 state.

14 [(15)] (14) A person who holds a current out-of-state license or driver permit or a valid Oregon  
 15 license or driver permit. A person who is not eligible under this subsection may become eligible by  
 16 surrendering the license, driver permit or out-of-state license or driver permit to the department  
 17 before issuance of the license. Nothing in this subsection authorizes a person to continue to operate  
 18 a motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS  
 19 807.062 to obtain an Oregon license or permit.

20 [(16)] (15) A person who has not complied with the requirements and responsibilities created by  
 21 citation for or conviction of a traffic offense in another jurisdiction if an agreement under ORS  
 22 802.530 authorizes the department to withhold issuance of a license.

23 **SECTION 2.** ORS 807.090 is amended to read:

24 807.090. (1) If the Department of Transportation determines that a person may be ineligible for  
 25 a license because the person has a *[history of any physical or mental disease or disability that may*  
 26 *impair the person’s ability to safely operate]* **mental or physical condition or impairment that**  
 27 **affects the person’s ability to safely operate** a motor vehicle, the person may establish eligibility  
 28 for a license, notwithstanding the *[disability or disease]* **mental or physical condition or impair-**  
 29 **ment:**

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

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

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

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

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

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

7 (3) If a person establishes eligibility for a license under this section by obtaining a certificate  
 8 of eligibility, the department may require the person to reestablish eligibility at reasonable intervals.  
 9 The frequency of reestablishing eligibility under this subsection shall be established by the State  
 10 Health Officer after reviewing recommendations from the physician, nurse practitioner or physician  
 11 assistant of the person required to reestablish eligibility.

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

15 **SECTION 3.** ORS 809.380 is amended to read:

16 809.380. All of the following apply to a person whose driving privileges have been suspended:

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

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

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

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

29 (5) If the person fails to surrender to the department any license or driver permit issued as ev-  
 30 idence of driving privileges that are suspended, the person is subject to the penalties under ORS  
 31 809.500.

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

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

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

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

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

45 (e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375

1 that a person charged with a traffic offense has been found guilty except for insanity.

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

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

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

11 (i) The department issued the suspension without error because the person was not in compli-  
12 ance with financial responsibility requirements as of the date of the department's letter of verifica-  
13 tion under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department  
14 later determines that the person reasonably and in good faith believed that the person was in com-  
15 pliance with financial responsibility requirements on the date of the department's letter of verifica-  
16 tion or at the time of the accident.

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

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

24 **SECTION 4.** ORS 809.419 is amended to read:

25 809.419. (1)(a) The Department of Transportation shall suspend the driving privileges of a person  
26 if the department requests the person to submit to examination under ORS 807.340 and the person  
27 fails to appear within a reasonable length of time after being notified to do so or fails to satisfac-  
28 torily complete the required examination. A suspension under this subsection shall continue until  
29 the examination required by the department is successfully completed.

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

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

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

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

42 (c) The department may impose an immediate suspension of driving privileges of any person  
43 described in paragraph (a) of this subsection without hearing and without receiving a record of the  
44 conviction of the person of a crime if the department has reason to believe that the person may  
45 endanger people or property if the person's driving privileges are not immediately suspended. A

1 suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440, except  
2 that a person who is denied a certificate of eligibility under ORS 807.090 is entitled only to an ad-  
3 ministrative review under ORS 809.440 of the suspension.

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

7 (b) Upon revocation under this subsection, the endorsed license shall be surrendered to the de-  
8 partment.

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

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

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

22 **SECTION 5.** ORS 813.520 is amended to read:

23 813.520. In addition to any provisions of ORS 807.240 and 813.510 or 807.250, this section estab-  
24 lishes limitations on the authority of the Department of Transportation to issue driving privileges  
25 under ORS 807.240. The department may not reinstate any driving privileges or issue any hardship  
26 permit under ORS 807.240 as provided under any of the following:

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

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

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

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

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

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

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

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

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

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