

Enrolled Senate Bill 129

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CHAPTER

AN ACT

Relating to commercial driver licenses; creating new provisions; amending ORS 153.090, 801.208, 801.307, 807.020, 807.031, 807.173, 809.413, 811.175, 825.955 and 825.960; repealing ORS 813.052; and declaring an emergency.

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

SECTION 1. Section 2 of this 2009 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 2. (1) The Department of Transportation shall cancel a driver license with a Class A or Class B farm endorsement or deny a person the right to apply for a Class A or Class B farm endorsement if the person is disqualified from holding a commercial driver license under ORS 809.404.

(2) If the department cancels a driver license with a Class A or Class B farm endorsement under this section, the person whose license is canceled is entitled to an administrative review under ORS 809.440.

SECTION 3. ORS 801.208 is amended to read:

801.208. (1) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles that:

- (a) Has a gross combination weight rating **or actual gross combination weight** of 26,001 pounds or more, **whichever is greater**, inclusive of a towed unit **or a combination of towed units**, with a gross vehicle weight rating **or actual gross vehicle weight** of more than 10,000 pounds, **whichever is greater**;
- (b) Has a gross vehicle weight rating **or actual gross combination weight** of 26,001 pounds or more, **whichever is greater**;
- (c) Is designed to transport 16 or more persons, including the driver; or
- (d) Is of any size and is used in the transportation of hazardous materials.

(2) Notwithstanding subsection (1) of this section, the term "commercial motor vehicle" does not include the following:

- (a) An emergency fire vehicle being operated by firefighters as defined in ORS 652.050;
- (b) Emergency vehicles being operated by emergency service workers as defined in ORS 401.025;
- (c) A motor home used to transport or house, for nonbusiness purposes, the operator or the operator's family members or personal possessions; **or**

[(d) A vehicle that is owned or leased by, or operated under contract with, a mass transit district or a transportation district when the vehicle is actually being used to transport passengers for hire and is being operated by a volunteer driver, so long as the vehicle is not one described in subsection (1)(a) to (d) of this section; or]

[(e)] (d) A recreational vehicle that is operated solely for personal use.

SECTION 4. ORS 153.090 is amended to read:

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

- (a) Imposition of a sentence to pay a fine;
- (b) Costs, assessments and restitution authorized by law;
- (c) A requirement that the fine, costs, assessments and restitution, if any, be paid out of any base fine;
- (d) Remission of any balance of a base fine to the defendant or to any other person designated by the defendant; and
- (e) Any other provision authorized by law.

(2) Notwithstanding ORS 137.106, if the court orders restitution in a default judgment entered under ORS 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions imposed, including restitution, and request a hearing to determine whether the defendant is unable to pay or to establish a payment schedule by filing a written request with the court within one year after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability to pay upon receipt of the request and shall give notice to the district attorney. The district attorney shall give notice to the victim of the date, time and place of the hearing. The court may determine a payment schedule for monetary sanctions imposed, including restitution ordered under this subsection, if the defendant establishes at the hearing that the defendant is unable to pay the ordered restitution in full.

(3) If a trial is held in a violation proceeding, or a default judgment is entered against the defendant under ORS 153.102, the court may impose any fine within the statutory limits for the violation. If a defendant pleads no contest under ORS 153.061 (3)(b), or pleads guilty under ORS 153.061 (3)(c), and the court accepts the plea and enters judgment against the defendant, the amount of the fine imposed against the defendant by the court may not exceed the amount of the base fine established for the violation under ORS 153.125 to 153.145.

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

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

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

(7) If a person holds a commercial driver license, a court may not defer entry of a judgment or allow an individual to enter into a diversion program that would prevent a conviction for a traffic offense from appearing on the driving record of the holder. This subsection applies to all traffic offenses, whether committed while driving a motor vehicle or a commercial motor vehicle, but does not apply to parking violations. For purposes of this subsection, a person holds a commercial driver license if on the date of the commission of the offense the **person holds a commercial driver license issued by the Department of Transportation or the licensing agency of another jurisdiction that** is:

[(a) Valid;]

[(b) Expired less than one year; or]

[(c) Suspended, but not canceled, revoked.]

(a) Not expired or if expired, expired less than one year; or

(b) Suspended, but not canceled or revoked.

SECTION 5. ORS 801.307 is amended to read:

801.307. "Holds a commercial driver license" means a person holds a commercial driver license issued by the Department of Transportation or the licensing agency of another jurisdiction that is:

[(1) Valid;]

[(2) Expired less than one year; or]

[(3) Suspended, but not canceled, revoked.]

(1) Not expired or if expired, expired less than one year; or

(2) Suspended, but not canceled or revoked.

SECTION 6. ORS 807.020 is amended to read:

807.020. A person who is granted a driving privilege by this section may exercise the driving privilege described without violation of the requirements under ORS 807.010. A grant of driving privileges to operate a motor vehicle under this section is subject to suspension and revocation the same as other driving privileges granted under the vehicle code. This section is in addition to any exemptions from the vehicle code under ORS 801.026. The following persons are granted the described driving privileges:

(1) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person holds a current out-of-state license issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. To qualify under this subsection, the person must have the out-of-state license or driver permit in the person's possession. A person is not granted driving privileges under this subsection:

(a) If the person is under the minimum age required to be eligible for driving privileges under ORS 807.060;

(b) During a period of suspension or revocation by this state or any other jurisdiction of driving privileges or of the right to apply for a license or driver permit issued by this state or any other jurisdiction; or

(c) That exceed the driving privileges granted to the person by the out-of-state license or driver permit.

(2) A person in the Armed Forces of the United States may operate a motor vehicle without an Oregon license or driver permit if the person **is operating a motor vehicle in the course of the person's duties in the Armed Forces.**[:]

[(a) Has a current out-of-state license or driver permit issued by the Armed Forces; and]

[(b) Is operating an official motor vehicle in the course of the person's duties in the Armed Forces.]

(3) A person without a license or driver permit may operate a road roller or road machinery that is not required to be registered under the laws of this state.

(4) A person without a license or driver permit may temporarily operate, draw, move or propel a farm tractor or implement of husbandry.

(5) A person without a license or driver permit may operate a motor vehicle to demonstrate driving ability during the course of an examination administered under ORS 807.070 for the purpose of qualifying for a license or driver permit. This subsection only applies when an authorized examiner is in a seat beside the driver of the motor vehicle.

(6) Driving privileges for snowmobiles are exclusively as provided in ORS 821.150.

(7) Driving privileges for Class I all-terrain vehicles are exclusively as provided in ORS 821.170.

(8) Driving privileges for Class III all-terrain vehicles are exclusively as provided in ORS 821.172.

(9) A person without a license or driver permit may operate a golf cart in accordance with an ordinance adopted under ORS 810.070.

(10) The spouse of a member of the Armed Forces of the United States on active duty who is accompanying the member on assignment in this state may operate a motor vehicle if the spouse

has a current out-of-state license or driver permit issued to the spouse by another state in the spouse's possession.

(11) A person who is a member of the Armed Forces of the United States on active duty may operate a motor vehicle if the person has a current out-of-state license or driver permit in the person's possession that is issued to the person by the person's state of domicile or by the Armed Forces of the United States in a foreign country. Driving privileges described under this subsection that are granted by the Armed Forces apply only for a period of 45 days from the time the person returns to the United States.

(12) A person who does not hold a motorcycle endorsement may operate a motorcycle if the person is:

(a) Within an enclosed cab; or

(b) Operating a vehicle designed to travel with three wheels in contact with the ground at speeds of less than 15 miles per hour.

(13) A person may operate a bicycle that is not an electric assisted bicycle without any grant of driving privileges.

(14) A person may operate an electric assisted bicycle without a driver license or driver permit if the person is 16 years of age or older.

(15) A person may operate a motor assisted scooter without a driver license or driver permit if the person is 16 years of age or older.

(16) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person is at least 15 years of age and has in the person's possession a current out-of-state equivalent of a Class C instruction driver permit issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. A person operating a motor vehicle under authority of this subsection has the same privileges and is subject to the same restrictions as a person operating under the authority of a Class C instruction driver permit issued as provided in ORS 807.280.

(17) A person may operate an electric personal assistive mobility device without any grant of driving privileges if the person is 16 years of age or older.

SECTION 7. ORS 807.031 is amended to read:

807.031. This section describes the type of driving privileges granted by the various licenses issued by this state. Licenses are established by class with the highest class being Class A commercial. Each class of license grants driving privileges for that class and for all lower classes. A license does not grant driving privileges for which an endorsement is required. The following licenses grant the driving privileges described:

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

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

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

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

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

[(c)] (b) Any vehicle that is used in the transportation of hazardous materials if the gross vehicle weight rating **or actual gross weight** of the vehicle is less than 26,001 pounds and the person has the proper endorsement; and

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

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

(5) A restricted Class C license authorizes a person to operate a moped or to operate under one of the permits described in ORS 807.200 as constituting a restricted Class C license. The person may not operate any vehicle for which an endorsement is required or be granted any endorsements for the license.

SECTION 8. ORS 807.173 is amended to read:

807.173. (1) Notwithstanding ORS 807.170, the Department of Transportation may not issue or renew a commercial driver license with a hazardous materials endorsement and may cancel a commercial driver license with a hazardous materials endorsement if a person:

(a) Does not complete and pass a security threat assessment from the federal Transportation Security Administration, including receipt by the department of a notice from the federal Transportation Security Administration showing that the person does not pose a security threat. The department shall establish by rule the process and frequency for obtaining a security threat assessment.

(b) Is assessed as a security threat by the federal Transportation Security Administration. The assessment must be received by the department in the form of a notice from the federal Transportation Security Administration.

(c) Is not a U.S. citizen or permanent legal resident as defined by the department by rule.

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

(3) To the extent possible, rules promulgated by the department under this section should be uniform with any applicable federal regulations related to the holding of a commercial driver license with a hazardous materials endorsement.

SECTION 9. ORS 809.413 is amended to read:

809.413. The Department of Transportation shall suspend the commercial driver license of a person when the department receives a record of conviction, notification or notice described in this section. A person is entitled to administrative review under ORS 809.440 of a suspension under this section. The department shall suspend the commercial driver license when the department receives:

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

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

(B) The person was not driving a commercial motor vehicle containing a hazardous material at the time of the offense.

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

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

(c) Suspension of the commercial driver license for the lifetime of the person if the person has previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404.

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

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

(B) The person was not driving a commercial motor vehicle containing a hazardous material at the time of the offense.

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

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

(c) Suspension of the commercial driver license for the lifetime of the person if the person has previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404.

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

(4) A record of conviction for driving a commercial motor vehicle while, as a result of prior violations committed while operating a commercial motor vehicle, the commercial driver license of the driver had been suspended or revoked. A conviction **described** under this subsection shall result in:

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

(B) The person was not driving a commercial motor vehicle containing a hazardous material at the time of the offense.

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

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

(c) Suspension of the commercial driver license for the lifetime of the person if the person has previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404.

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

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

(B) The person was not driving a commercial motor vehicle containing a hazardous material at the time of the offense.

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

(A) The person has not previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404; and

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

(c) Suspension of the commercial driver license for the lifetime of the person if the person has previously been convicted of an offense described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404.

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

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

(b) For a period of 120 days if the conviction is the person's third or subsequent conviction for a serious traffic violation within the three-year period. A suspension imposed under this paragraph shall be consecutive to any other suspension imposed for a serious traffic violation.

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

(a) Except as provided in paragraph (b) of this subsection, for a period of [90] **180** days if the notification relates to the person's first violation of an out-of-service order or notice.

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

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

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

(8) Notification from the Federal Motor Carrier Safety Administration that a person in this state who holds a commercial driver license in this state has been disqualified from operating a commercial motor vehicle and that the disqualification is due to a determination that the driving of that person constitutes an imminent hazard. A suspension under this subsection shall be made immediately and for the period prescribed by the Federal Motor Carrier Safety Administration, except that:

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

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

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

(a) Shall end upon the earliest of [*five*] **10** years from the date of suspension or upon notification by the other jurisdiction that the person appeared.

(b) Shall be placed on the person's driving record regardless of whether another jurisdiction places the suspension on the person's driving record.

(c) May not be for a person's failure to appear on a parking, pedestrian or bicyclist offense.

(10) Notification from another jurisdiction that the person failed to pay a fine or obey an order of the court on a citation for a traffic offense or for a violation in the other jurisdiction that, if

committed in this state, would be grounds for suspension under ORS 809.415 (4), and the person held a commercial driver license or was operating a commercial motor vehicle at the time of the offense. A suspension under this subsection:

(a) Shall end upon the earliest of *[five]* **10** years from the date of suspension or upon notification by the other jurisdiction that the person paid the fine or obeyed the order of the court.

(b) Shall be placed on the person's driving record regardless of whether another jurisdiction places the suspension on the person's driving record.

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

(11) Notice of a conviction in another jurisdiction of an offense that, if committed in this state, would be grounds for the suspension of the person's commercial driver license. The period of suspension under this subsection shall be the same as would be imposed on the person if the conviction were for an offense committed in this state. **As used in this subsection, "conviction" means an unvacated adjudication of guilt, a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost or the violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.**

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

SECTION 10. ORS 811.175 is amended to read:

811.175. (1) A person commits the offense of violation driving while suspended or revoked if the person does any of the following:

(a) Drives a motor vehicle upon a highway during a period when the person's driving privileges or right to apply for driving privileges have been suspended or revoked in this state by a court or by the Department of Transportation.

(b) Drives a motor vehicle outside the limitations of a probationary permit issued under ORS 807.270 or a hardship driver permit issued under ORS 807.240, including any limitations placed on the permit under ORS 813.510.

(c) Drives a commercial motor vehicle upon a highway during a period when the person's *[commercial driver license has been suspended, regardless of whether or not the person has other driving privileges granted by this state]* **driving privileges or commercial driving privileges have been suspended or revoked in this state or any other jurisdiction.**

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

(3) The offense described in this section is applicable upon any premises open to the public.

(4) The offense described in this section, violation driving while suspended or revoked, is a Class A traffic violation except as otherwise provided in ORS 811.182.

SECTION 11. ORS 825.955 is amended to read:

825.955. (1) In addition to any other penalties provided by law, the Department of Transportation may impose a civil penalty of not more than \$1,000 for:

[(a) Violation of the provisions of an out-of-service notice issued by the department or its authorized representative in conjunction with a safety inspection;]

[(b)] **(a)** Submittal of a false certification to the department on a driver equipment compliance check form;

[(c)] **(b)** Failure by a motor carrier to return to the department as required by rule a driver equipment compliance check form; or

[(d)] (c) Failure of a motor carrier to establish or participate in a drug and alcohol testing program as required by ORS 825.410.

(2) Each violation specified in subsection (1) of this section is a separate offense, and in the case of a continuing violation, each day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the penalty provided in this section.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.

(4) The department may reduce any civil penalty provided for in this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

(6) The department shall adopt rules describing the driver equipment compliance check form referred to in subsection (1) of this section.

SECTION 12. ORS 825.960 is amended to read:

825.960. (1) When the Department of Transportation receives notification that a person has violated an out-of-service order or notice, the department shall impose a civil penalty of not less than \$2,750 or more than [~~\$11,000~~] **\$25,000** on the employer of an operator of a commercial motor vehicle if the department finds that the employer knowingly allowed, permitted, authorized or required the operator to violate the order or notice.

(2) For purposes of this section, "notification" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice.

(3) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(4) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

SECTION 13. Section 14 of this 2009 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 14. (1) The Department of Transportation shall impose a civil penalty on the operator of a commercial motor vehicle if:

(a) The operator has violated an out-of-service order issued under ORS 813.050 or any other out-of-service order or notice issued by the department or an authorized representative of the department; or

(b) The department receives notification that a person has violated any out-of-service order or notice issued by a state or federal agency.

(2) For the purposes of this section, "notification" may include, but is not limited to, a record of conviction or a record of a determination by a state or federal agency with jurisdiction to determine that the operator has violated an out-of-service order or notice.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745 and may not be reduced. The civil penalties are:

(a) **\$2,500 for the first violation of an out-of-service order or notice.**

(b) \$5,000 for a second or subsequent violation of an out-of-service order or notice.

SECTION 15. ORS 813.052 is repealed.

SECTION 16. Sections 2 and 14 of this 2009 Act, the amendments to ORS 801.208, 807.020, 807.031, 807.173, 809.413, 825.955 and 825.960 by sections 3, 6 to 9, 11 and 12 of this 2009 Act and the repeal of ORS 813.052 by section 15 of this 2009 Act become operative on January 1, 2010.

SECTION 17. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate March 9, 2009

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Secretary of Senate

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President of Senate

Passed by House June 1, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

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Secretary of State