

# Enrolled House Bill 2137

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

CHAPTER .....

## AN ACT

Relating to driving privileges; amending ORS 153.090, 165.805, 167.401, 471.430, 742.449, 742.562, 742.566, 746.265, 801.477, 802.220, 807.220, 807.250, 807.350, 809.020, 809.120, 809.140, 809.220, 809.235, 809.240, 809.260, 809.265, 809.275, 809.280, 809.409, 809.411, 809.412, 809.440, 811.109, 811.135 and 813.606.

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

**SECTION 1.** ORS 809.280 is amended to read:

809.280. [(1) *This section establishes the procedures the Department of Transportation shall follow when a court orders or recommends the suspension or revocation of driving privileges. This section also establishes the period of time the revocation or suspension will be effective.*]

[(2)] (1) [When] **Upon receipt of a court [orders a suspension of driving privileges] order** under ORS 809.270, the Department of **Transportation** shall [immediately make proper entry in its files and records and take other action as necessary to implement the order] **suspend the person's driving privileges**. The suspension shall remain in [force] **effect** until the department is notified by the court that the suspension is ended, except that, if the department is ordered to automatically [restore] **reinstate** the driving privileges upon the successful completion of a program, the department shall do so and shall notify the judge that the person has complied with the order of the judge.

(2) **Upon receipt of a court order under ORS 809.120, the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 90 days.**

[(3) *When a court recommends a suspension of driving privileges under ORS 809.120, the department shall impose the suspension as recommended by the court.*]

[(4)] (3) [When a court notifies the department] **Upon receipt of a court notice** under ORS 809.130 of an unsettled judgment, the department shall suspend **the person's driving privileges** and, subject to any other requirements of law, [restore] **reinstate** the driving privileges upon appropriate notification from the court under ORS 809.130, except that the department shall only impose the suspension after the department has determined that:

- (a) The judgment was rendered against the person;
- (b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and
- (c) The judgment continues to be unsettled as described in ORS 809.470.

[(5)] (4) [When a court notifies the department under ORS 419C.472 or 809.220 to suspend for failure to appear, the department shall suspend the driving privileges of the person] **Upon receipt of a court notice under ORS 419C.472 or 809.220, the department shall suspend the person's driving privileges** for an indefinite period. The department shall [terminate the suspension] **rein-**

**state driving privileges that have been suspended under this subsection** upon notification by the court or upon the elapse of 10 years from the date of suspension, **whichever comes first**. [A suspension under this subsection shall be placed on the defendant's driving record.] The department [shall] **may** not suspend any driving privileges under this subsection for a person's failure to appear on a parking, pedestrian or bicyclist offense.

[(6)] **(5)** [When a court sends the department a license or otherwise notifies the department] **Upon receipt of a court notice** under ORS 810.310, the department shall suspend the **person's** driving privileges [of the person] for an indefinite period. The department shall [terminate the suspension ordered under this section] **reinstate driving privileges that have been suspended under this subsection** upon notification by the court or upon the lapse of 10 years from the date of suspension, whichever comes first.

[(7)] *In addition to any other authority to suspend driving privileges under the vehicle code, the department shall suspend all driving privileges of any person upon receipt of an order of denial of driving privileges under ORS 809.260. The suspension shall be imposed without hearing. The driving privileges of the person shall be suspended as provided in the following:*

**(6) Upon receipt of a court order under ORS 809.260, the department shall suspend the person's driving privileges as follows:**

(a) Upon receipt of the first order [denying] **suspending** driving privileges, the department shall [impose a suspension] **suspend the person's driving privileges** for one year, or until the person [so suspended] reaches 17 years of age, whichever is longer.

(b) Upon receipt of a second or subsequent order [denying] **suspending** driving privileges, the department shall suspend **the person's driving privileges** for one year or until the person reaches 18 years of age, whichever is longer.

[(8)] **(7)** If the department receives notice from a court that it has withdrawn an order issued under ORS 809.260, the department shall immediately reinstate any driving privileges that have been suspended under subsection [(7)] **(6)** of this section because of the issuance of the order.

[(9)] *When a court orders suspension of driving privileges under ORS 165.805 or 471.430, the department shall impose the suspension as ordered by the court.*

**(8) Upon receipt of a court order under ORS 165.805 or 471.430, the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed one year.**

[(10)] *When a court orders a suspension of driving privileges under ORS 809.265, the department shall immediately suspend all driving privileges of the person. Upon receipt of an order suspending driving privileges, the department shall impose a suspension for six months.*

**(9) Upon receipt of a court order under ORS 809.265, the department shall suspend the person's driving privileges for six months.**

[(11)] **(10)** [When a court orders revocation of driving privileges as provided in] **Upon receipt of a court order under ORS 809.235**, the department shall [impose the revocation as ordered] **permanently revoke the person's driving privileges**. The revocation shall remain in effect until the department is notified by a court that the person's driving privileges have been ordered restored.

[(12)] **(11)** When a court orders suspension of driving privileges under ORS 811.109 (4), the department shall [impose the suspension as ordered by the court] **suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 30 days.**

**(12) When a court orders suspension of driving privileges under ORS 811.109 (5), the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for not less than 30 days and not more than 90 days.**

[(13)] *When a court orders suspension of driving privileges under ORS 811.135, the department shall immediately suspend all driving privileges of the person for one year.*

**(13) Upon receipt of a court order under ORS 811.135, the department shall suspend the person's driving privileges for one year.**

**SECTION 2.** ORS 807.220 is amended to read:

807.220. (1) The Department of Transportation shall provide for the issuance of emergency driver permits in a manner consistent with this section.

(2) Except as otherwise provided in this section an emergency driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a Class C license.

(3) The following apply to an emergency driver permit:

(a) The department may issue an emergency driver permit to a person 14 years of age or older.

(b) The department shall place restrictions on the permit that designate the routes over which the permit is valid. The department shall designate routes it determines necessary from the facts creating the emergency.

(c) The permit shall only be issued if the department is satisfied that an emergency exists that requires operation of a motor vehicle by the applicant.

(d) The department may establish a form for the permit that differs from the form required for a license.

(e) The only fee required for issuance of the permit is the emergency driver permit fee under ORS 807.370.

(f) The department may establish a period for the expiration of the permit that coincides with the end of the emergency that is the basis for the permit.

(g) The department shall cancel the permit if the department determines that the holder of the permit has operated a motor vehicle over any highway or for any purpose other than one approved under the permit.

(h) If an emergency driver permit is canceled, the person issued the permit is ineligible to be issued another emergency driver permit for a period of one year.

(i) In addition to any other application requirements for the emergency driver permit, the applicant must obtain the endorsement on the application of the sheriff of the county in which the applicant resides.

(4) The department may issue an emergency driver permit, if the person qualifies for the permit, to a person whose driving privileges are suspended under ORS 809.280 because the department has received an order [*of denial of*] **suspending** driving privileges under ORS 809.260. In addition to other emergencies, a situation that leaves the applicant with no alternative means to travel to and from school is an emergency for purposes of a permit issued under this subsection.

**SECTION 3.** ORS 809.120 is amended to read:

809.120. (1) In addition to any other punishment imposed under ORS 818.040, a convicting court has authority to [*recommend*] **order** the suspension of the driving privileges of the operator of the vehicle used to violate ORS 818.040 or the registration of the vehicle if the vehicle is required to be registered by the Department of Transportation. The authority of a court to [*recommend*] **order** the suspension of driving privileges or registration under this section is subject to the following:

(a) Subject to paragraph (b) of this subsection, the court may only [*recommend*] **order** suspension for a period of up to 90 days.

(b) For a second or subsequent violation of ORS 818.040, within one year after the first conviction, the court shall [*recommend*] **order** the suspension for not less than 30 days nor more than 90 days.

(2) Upon [*recommending*] **ordering** a suspension under this section, a court shall secure the license, driver permit or registration plates [*recommended*] **ordered** suspended and shall immediately forward them to the department with the [*recommendation*] **order** of suspension as provided under ORS 809.275.

(3) Upon receipt of an order under this section, the department shall proceed as provided under ORS 809.020 or 809.280.

**SECTION 4.** ORS 809.140 is amended to read:

809.140. (1) Unless otherwise specifically provided by law, a person whose identification card, vehicle registration or driving privileges are suspended, revoked or canceled by the Department of

Transportation is entitled to administrative review of the action rather than to a formal hearing by the department if the suspension, revocation or cancellation is based upon:

- (a) A conviction;
  - (b) Notification from a court that the court has [*suspended, revoked or canceled an identification card, registration or privileges*] **ordered suspension, revocation or cancellation**; or
  - (c) Notice from a court to the department to suspend, cancel or revoke.
- (2) Actions by the department based on grounds other than those specified in subsection (1) of this section may be subject to administrative review rather than a formal hearing if specifically provided by law.

**SECTION 5.** ORS 809.220 is amended to read:

809.220. This section establishes procedures that are applicable if a person fails to appear on a citation for a traffic offense or for a violation of ORS 471.430. All of the following apply to this section:

(1) If a defendant fails to make any appearance required by the court or by law in a proceeding charging the defendant with a traffic offense or with a violation of ORS 471.430, the court:

(a) Shall issue notice to the Department of Transportation to suspend for failure to appear if the defendant is charged with a traffic crime or with a violation of ORS 471.430. If a court issues notice under this paragraph, the department shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the department to implement procedures under ORS 809.416 if the defendant is charged with a traffic violation. If a court issues notice under this paragraph, the department shall implement procedures under ORS 809.416.

(2) In any notice to the department under this section, a court shall certify that the defendant failed to appear in the proceedings in the manner required by the court or by law.

(3) At any time within 10 years from the date of a notice to suspend for failure to appear given to the department under this section, a court shall give a second notice to the department to [*terminate a suspension*] **reinstate the person's suspended driving privileges** resulting from the original notice if any of the following occur:

- (a) The base fine amount or fine set by the court is paid.
- (b) The court finds the defendant not guilty or orders a dismissal of the case.
- (c) The court determines that the [*suspension for failure to pay or appear should be terminated*] **person's suspended driving privileges should be reinstated** for good cause.

(4) Notifications by a court to the department under this section shall be in a form prescribed by the department.

(5) A court shall not notify the department under this section for failure to appear on any parking, pedestrian or bicyclist offense.

**SECTION 6.** ORS 802.220 is amended to read:

802.220. (1) Except as otherwise provided in this subsection and ORS 802.177, the records the Department of Transportation maintains under ORS 802.200 on vehicles are public records. The records of vehicles registered under ORS 805.060 are not public records and are exempt from public inspection as provided under ORS 181.548 and are for the confidential use of criminal justice agencies described under ORS 181.010. The department may charge the fee established under ORS 802.230 for furnishing information under this section concerning a vehicle or its owner.

(2) The department may charge the fee established under ORS 802.230 for furnishing to the public information from the records the department maintains under ORS 802.200 concerning driver licenses or driver permits.

(3) The records the department keeps under ORS 802.200 on judgments or convictions under ORS 810.375 shall be open to the inspection of any person during reasonable business hours. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.

(4) The department shall upon request furnish any person certified abstracts of the employment driving record and the nonemployment driving record of any person whose driving records are maintained under ORS 802.200. If an abstract of the employment driving record is not specifically

requested, the department shall only furnish an abstract of the nonemployment driving record. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175. The department shall collect the fee established for abstracts of driving records under ORS 802.230. A certified abstract issued under this section shall not contain any of the following, unless the abstract is being requested under ORS 746.265 (3):

(a) Any accident or conviction for violation of motor vehicles laws that occurred more than three years immediately preceding a request for abstract.

(b) Any suspension ordered under ORS 809.220 after the department has received notice to *[terminate the suspension]* **reinstate a person's suspended driving privileges** under ORS 809.220.

(c) Any diversion agreement under ORS 813.220 entered into more than three years immediately preceding a request for the abstract.

(5) Except as otherwise provided in this subsection, accident reports filed with the department under ORS 811.725, 811.730 or 811.735 shall be without prejudice to the individual filing the report and shall be for the confidential use of state administrative and enforcement agencies. The department may use the confidential accident reports to provide the following information to the persons described:

(a) Upon request, the department shall disclose the following information to any party involved in the accident or to their personal representative or any member of the family of a party involved in the accident:

(A) The identity of the owner, driver, occupants and the registration number of a vehicle involved in the accident;

(B) The names of any companies insuring the owner or driver of a vehicle involved in the accident; and

(C) The names of any witnesses to the accident.

(b) The department shall furnish a certificate showing that a specified accident report has or has not been made to the department upon demand of any person who has or claims to have made such a report or upon demand of a court.

(6) The department shall tabulate and may analyze all accident reports to develop statistical information based thereon as to the number and circumstances of traffic accidents. The department shall publish information compiled under this section in the manner provided under ORS 802.050.

(7) Except as otherwise provided in this subsection, the records the department is required under ORS 802.200 to maintain on trip permits issued under ORS 803.600 are public records. The department may charge a fee established under ORS 802.230 for furnishing information from the records on trip permits. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.

(8) The records the department maintains under ORS 802.200 concerning odometer readings for vehicles are public records. The department may separately furnish information concerning odometer readings shown by its records. The department may charge the fee established under ORS 802.230 for information separately provided under this subsection. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.

**SECTION 7.** ORS 809.260 is amended to read:

809.260. (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall *[prepare and send to the Department of Transportation, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted]* **order suspension of the person's driving privileges**. This subsection applies to ORS 166.370 and to any offense involving the delivery, manufacture or possession of controlled substances.

(2) Whenever a person who is 20 years of age or younger, but not younger than 13 years of age, at the time of committing any offense described in this subsection, is convicted or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall *[prepare and send to the Department of Transportation, within 24 hours of the con-*

*viction or determination, an order of denial of driving privileges for the person so convicted] **order suspension of the person's driving privileges.** This subsection applies to any offense involving the possession, use or abuse of alcohol.*

(3) If a court has issued an order *[of denial of]* **suspending** driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

(4) Upon receipt of an order under this section, the department shall take action as directed under ORS 809.280.

**SECTION 8.** ORS 809.265 is amended to read:

809.265. (1) Unless the court finds compelling circumstances not to order suspension of driving privileges, the court in which a person is convicted of an offense described in this subsection shall *[prepare and send to the Department of Transportation, within 24 hours of the conviction, an order of suspension of driving privileges of the person]* **order suspension of the person's driving privileges.** This subsection applies when a person is convicted of:

(a) Any offense involving manufacturing, possession or delivery of controlled substances.

(b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance if the person was under the influence of an inhalant or a controlled substance.

(2) Upon receipt of an order under this section, the department shall take action as directed under ORS 809.280.

**SECTION 9.** ORS 809.275 is amended to read:

809.275. (1) A court shall take immediate possession of any license or driver permit held by a defendant that is issued by any jurisdiction if the court *[imposes]* **orders a suspension or revocation** under ORS **165.805, 471.430, 809.120, 809.235, 809.240, 809.260, 809.265** *[or]* 809.270, **811.109 or 811.135.**

(2) Upon taking possession of a license or permit under this section, a court shall immediately forward to the Department of Transportation the license or permit and a copy of the suspension or revocation order or other information satisfactory to the department and to the State Court Administrator.

(3) A suspension or revocation of driving privileges becomes effective on the date a court takes possession of a license or permit under this section or orders the suspension or revocation.

**(4) The department is not required to provide further notice of a suspension or revocation ordered by the court.**

**(5) Nothing in this section requires a court to take additional action, after the conclusion of the sentencing hearing, to secure the driver license or driver permit.**

**SECTION 10.** ORS 811.109 is amended to read:

811.109. (1) Violation of a specific speed limit imposed under law or of a posted speed limit is punishable as follows:

(a) One to 10 miles per hour in excess of the speed limit is a Class D traffic violation.

(b) 11 to 20 miles per hour in excess of the speed limit is a Class C traffic violation.

(c) 21 to 30 miles per hour in excess of the speed limit is a Class B traffic violation.

(d) Over 30 miles per hour in excess of the speed limit is a Class A traffic violation.

(2) Notwithstanding subsection (1) of this section, if the speed limit is 65 miles per hour or greater and:

(a) The person is exceeding the speed limit by 10 miles per hour or less, the offense is a Class C traffic violation.

(b) The person is exceeding the speed limit by more than 10 miles per hour but not more than 20 miles per hour, the offense is a Class B traffic violation.

(c) The person is exceeding the speed limit by more than 20 miles per hour, the offense is a Class A traffic violation.

(3) Violation of the basic speed rule by exceeding a designated speed posted under ORS 810.180 is punishable as follows:

(a) One to 10 miles per hour in excess of the designated speed is a Class D traffic violation.

(b) 11 to 20 miles per hour in excess of the designated speed is a Class C traffic violation.

(c) 21 to 30 miles per hour in excess of the designated speed is a Class B traffic violation.

(d) Over 30 miles per hour in excess of the designated speed is a Class A traffic violation.

(4) In addition to a fine imposed under subsection (1), (2) or (3) of this section, a court may *[impose]* **order** a suspension of driving privileges for up to 30 days if a person exceeds a speed limit or designated speed by more than 30 miles per hour and the person has received at least one prior conviction under ORS 811.100 or 811.111 within 12 months of the date of the current offense.

(5) If a person drives 100 miles per hour or greater when the person commits a violation described in this section, a court shall *[impose]* **order** the following in lieu of a punishment otherwise imposed under this section:

(a) A fine of \$1,000; and

(b) A suspension of driving privileges for not less than 30 days nor more than 90 days.

(6) When a court *[imposes]* **orders** a suspension under subsection (4) or (5) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.

**SECTION 11.** ORS 811.135 is amended to read:

811.135. (1) A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.

(2) The offense described in this section, careless driving, applies on any premises open to the public and is a Class B traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic violation.

(3) In addition to any other penalty imposed for an offense committed under this section, if the court determines that the commission of the offense described in this section contributed to the serious physical injury or death of a vulnerable user of a public way, the court shall:

(a) Impose a sentence that requires the person to:

(A) Complete a traffic safety course; and

(B) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129. The community service must include activities related to driver improvement and providing public education on traffic safety;

(b) *[Impose,]* **Order**, but suspend on the condition that the person complete the requirements of paragraph (a) of this subsection:

(A) A fine of up to \$12,500, notwithstanding ORS 153.018; and

(B) A suspension of driving privileges **for one year** as provided in ORS 809.280; and

(c) Set a hearing date up to one year from the date of sentencing.

(4) At the hearing described in subsection (3)(c) of this section, the court shall:

(a) If the person has successfully completed the requirements described in subsection (3)(a) of this section, dismiss the penalties *[imposed]* **ordered** under subsection (3)(b) of this section; or

(b) If the person has not successfully completed the requirements described in subsection (3)(a) of this section:

(A) Grant the person an extension based on good cause shown; or

(B) *[Impose]* **Order** the penalties under subsection (3)(b) of this section.

(5) When a court *[imposes]* **orders** a suspension under subsection (4) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving priv-

ileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.

(6) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense contributed to the serious physical injury or death of a vulnerable user of a public way.

**SECTION 12.** ORS 809.235 is amended to read:

809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in the first or second degree resulting from the operation of a motor vehicle, criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle.

(b) The court shall order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010 or if the person is convicted for a third or subsequent time of any of the following offenses in any combination:

(A) Driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

(ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

(B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of intoxicating liquor, a controlled substance, an inhalant or any combination thereof.

(C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.

(2)(a) A person whose driving privileges are revoked as described in subsection (1) of this section may file a petition in the circuit court of the county in which the person resides for an order restoring the person's driving privileges. A petition may be filed under this subsection no sooner than 10 years after the person is:

(A) Released on parole or post-prison supervision for the crime for which the person's driving privileges were revoked and any other crimes arising out of the same criminal episode; or

(B) Sentenced to probation if the probation is not revoked and the person is thereafter discharged without the imposition of a sentence of imprisonment.

(b) The district attorney of the county in which the person resides shall be named and served as the respondent in the petition.

(3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this section. In determining whether to grant the petition, the court shall consider:

(a) The nature of the offense for which driving privileges were revoked.

(b) The degree of violence involved in the offense.

(c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that resulted in the revocation.

(d) The recommendation of the person's parole officer, which shall be based in part on a psychological evaluation ordered by the court to determine whether the person is presently a threat to the safety of the public.

(e) Any other relevant factors.

(4) If, after a hearing described in subsection (3) of this section, the court is satisfied by clear and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a threat to the safety of the public, the court shall order the petitioner's driving privileges restored.

(5) Upon receiving a court order to restore a person's driving privileges, the department may reinstate driving privileges in accordance with ORS 809.390, except that the department may not reinstate driving privileges of any person whose privileges are revoked under this section until the person complies with future responsibility filings.

**NOTE:** Section 13 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 14.** ORS 809.409 is amended to read:

809.409. (1)(a) Upon receipt of a record of conviction of an offense described in this section, the Department of Transportation shall revoke the driving privileges of the person convicted.

(b) A person is entitled to administrative review under ORS 809.440 of a revocation under this section.

(c) Except as otherwise provided in subsections (2) and (3) of this section, the revocation shall be for a period of one year from the date of revocation, except that the department may not reinstate driving privileges of any person whose privileges are revoked under this section until the person complies with future responsibility filings.

(2) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked or any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle, except that the provisions of this subsection do not apply to a person whose driving privileges are ordered revoked under ORS 809.235. A person whose driving privileges are revoked under this subsection may apply for reinstatement of driving privileges:

*[(a) If the sentence for the crime includes incarceration, 10 years from the date the person is released from incarceration for the crime for which the person's driving privileges were revoked and any other crimes arising out of the same criminal episode; or]*

**(a) If the sentence for the crime for which the person's driving privileges were revoked, or any other crimes arising from the same criminal episode, includes incarceration, no sooner than 10 years from the date the person is released from incarceration for all crimes arising out of the same criminal episode; or**

(b) If the sentence for the crime for which the person's driving privileges were revoked and any other crimes arising from the same criminal episode does not include incarceration, no sooner than 10 years from the date the department revoked the privileges under this subsection.

(3) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of failure to perform the duties of a driver to injured persons under ORS 811.705. The department shall revoke driving privileges under this subsection for a period of five years if the court indicates on the record of conviction that a person was killed as a result of the accident. The person may apply for reinstatement of privileges five years after the date the person was released from incarceration, if the sentence includes incarceration. If the sentence does not include incarceration, the person may apply for reinstatement five years from the date the revocation was imposed under this subsection.

(4) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of perjury or the making of a false affidavit to the department under any law of this state requiring the registration of vehicles or regulating their operation on the highways.

(5) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of any felony with a material element involving the operation of a motor vehicle.

**SECTION 15.** ORS 809.411 is amended to read:

809.411. (1)(a) Upon receipt of a record of conviction for an offense described in this section, the Department of Transportation shall suspend the driving privileges of the person convicted.

(b) A person is entitled to administrative review under ORS 809.440 of a suspension under this section.

(c) Except as otherwise provided in subsections (7), (8), (9) and (10) of this section, the suspension shall be for the period of time described in Schedule I of ORS 809.428.[, *except that*] The department may not reinstate driving privileges of any person whose privileges are suspended under

**subsection (2), (3), (4), (5), (6), (7) or (10) of this section until the person complies with future responsibility filings. There is no requirement of compliance with future responsibility filings if the person was suspended under subsection (8) or (9) of this section.**

(2) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of any degree of recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

(3) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of reckless driving under ORS 811.140.

(4) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of failure to perform duties of a driver when property is damaged under ORS 811.700.

(5) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of fleeing or attempting to elude a police officer under ORS 811.540.

(6) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of reckless endangerment of highway workers under ORS 811.231 (1).

(7) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of theft under ORS 164.043, 164.045 or 164.055 when the theft was of gasoline. A suspension under this subsection shall continue for a period of six months from the date of suspension.

(8) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of criminal trespass under ORS 164.245 that involves the operation of a motor vehicle. A suspension under this subsection shall continue for a period of six months from the date of suspension.

(9) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of an offense described in ORS 809.310. A suspension under this subsection shall continue for a period of one year from the date of the suspension.

(10)(a) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of assault in the second, third or fourth degree resulting from the operation of a motor vehicle.

(b) A person who is convicted of assault in the second degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges eight years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges eight years from the date the department suspended the privileges under this subsection.

(c) A person who is convicted of assault in the third degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges five years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges five years from the date the department suspended the privileges under this subsection.

(d) A person who is convicted of assault in the fourth degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges one year from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges one year from the date the department suspended the privileges under this subsection.

**SECTION 16.** ORS 809.440 is amended to read:

809.440. *[This section establishes hearing and administrative review procedures to be followed when the Department of Transportation is required to provide a hearing or an administrative review of an action.]*

(1) When other procedures described under this section are not applicable to a suspension or revocation under ORS 809.409 to 809.423, the procedures described in this subsection shall be applicable. All of the following apply to this subsection:

(a) The hearing shall be given before the department imposes the suspension or revocation of driving privileges [*or continues, modifies or extends a suspension or revocation*].

(b) Before the hearing, the department shall notify the person in the manner described in ORS 809.430.

(c) The hearing shall be in the county where the person resides unless the person and the department agree otherwise.

[(d) *Upon such hearing, the department, good cause appearing therefor, may impose, continue, modify or extend the suspension or revocation of the driving privileges.*]

[(e)] (d) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(2) The following apply when administrative review is provided under any statute or rule of the department:

(a) An administrative review shall consist of an informal administrative process to assure prompt and careful review by the department of the documents upon which an action is based.

(b) It shall be a defense to the department's action if a petitioner can establish that:

(A) A conviction on which the department's action is based was for an offense that did not involve a motor vehicle and the department's action is permitted only if the offense involves a motor vehicle.

(B) An out-of-state conviction on which the department's action is based was for an offense that is not comparable to an offense under Oregon law.

(C) The records relied on by the department identify the wrong person.

(c) A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the action.

(d) Actions subject to administrative review shall be exempt from the provisions of ORS chapter 183 applicable to contested cases, and from the provisions of subsection (4) of this section applicable to post-imposition hearings. A suspension, revocation or cancellation shall not be stayed during the administrative review process or by the filing of a petition for judicial review. A court having jurisdiction may order the suspension, revocation or cancellation stayed pending judicial review.

(e) Judicial review of a department order affirming a suspension or revocation after an administrative review shall be available as for review of orders other than contested cases, and the department may not be subject to default for failure to appear in such proceedings. The department shall certify its record to the court within 20 days after service upon the department of the petition for judicial review.

(f) If the suspension or revocation is upheld on review by a court, the suspension or revocation shall be [*imposed*] **ordered** for the length of time appropriate under the appropriate statute except that the time shall be reduced by any time prior to the determination by the court that the suspension or revocation was in effect and was not stayed.

(g) The department shall adopt any rules governing administrative review that are considered necessary or convenient by the department.

(3) When permitted under this section or under any other statute, a hearing may be expedited under procedures adopted by the department by rule. The procedures may include a limited time in which the person may request a hearing, requirements for telephone hearings, expedited procedures for issuing orders and expedited notice procedures.

(4) When permitted under ORS [809.409 to 809.423] **809.413, 809.417, 809.419 or 809.421**, a hearing may be a post-imposition hearing under this subsection. A post-imposition hearing is a hearing that occurs after the department imposes the suspension or revocation of driving privileges [*or continues, modifies or extends a suspension or revocation*]. All of the following apply to this subsection:

(a) The department must provide notice in the manner described in ORS 809.430 before the suspension or revocation may take effect.

(b) Except as provided in this subsection, the hearing shall be conducted as a contested case in accordance with ORS chapter 183.

(c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, the hearing shall be held either in the county where the person resides or at any place within 100 miles, as established by the department by rule.

(5) The department has complied with a requirement for a hearing or administrative review if the department has provided an opportunity for hearing or review and the person with the right to the hearing or review has not requested it. Any request for hearing or review must be made in writing.

(6) For any hearing described under this section, and for administrative review described under this section, no further notice need be given by the department if the suspension or revocation is based upon a conviction and the court gives notice, in a form established by the department, of the rights to a hearing or review and of the suspension or revocation.

**SECTION 17.** ORS 813.606 is amended to read:

813.606. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the person's employment, to operate a motor vehicle owned by the person's employer, the person may operate that vehicle without installation of an ignition interlock device if:

(1) The employer has been notified:

(a) That the employee is operating with a hardship permit restricted as provided in ORS 813.604; [or]

(b) **That** the employee is operating on a fully reinstated license within the first [six months] **year** following suspension or revocation for **the employee's first conviction of driving while under the influence of intoxicants; [and] or**

(c) **That the employee is operating on a fully reinstated license within the second year following suspension or revocation for the employee's second or subsequent conviction of driving while under the influence of intoxicants; and**

(2) The employee has proof of the notification or fully reinstated license in the possession of the employee while operating the employer's vehicle in the course of employment.

**SECTION 18.** 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*] **issue notice to the Department of Transportation to suspend** 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*] **issuing notice to the department to suspend** 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) Not expired or if expired, expired less than one year; or
- (b) Suspended, but not canceled or revoked.

**SECTION 19.** ORS 165.805 is amended to read:

165.805. (1) A person commits the crime of misrepresentation of age by a minor if:

(a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

(b) Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.

(2) Misrepresentation of age by a minor is a Class C misdemeanor.

(3) In addition to and not in lieu of any other penalty established by law, a person who, using a driver permit or license or other identification issued by the Department of Transportation of this state or its equivalent in another state, commits the crime of misrepresentation of age by a minor in order to purchase or consume alcoholic liquor may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order [*denying*] **suspending** driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the department under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(4) The prohibitions of this section do not apply to any person acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under a certain, specified age.

(5) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years.

**SECTION 20.** ORS 167.401 is amended to read:

167.401. (1) Except as provided in subsection (4) of this section, no person under 18 years of age shall purchase, attempt to purchase or acquire tobacco products as defined in ORS 431.840. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with the consent of such parent or guardian, no person under 18 years of age shall have personal possession of tobacco products.

(2) Any person who violates subsection (1) of this section commits a violation.

(3)(a) In lieu of any other penalty established by law, a person who is convicted for the first time of a violation of subsection (1) of this section may be ordered to participate in a tobacco education program or a tobacco use cessation program or to perform community service related to diseases associated with consumption of tobacco products. A person may be ordered to participate in such a program only once.

(b) In addition to and not in lieu of any other penalty established by law, a person who is convicted of a second violation of subsection (1) of this section through misrepresentation of age may be required to participate in a tobacco education or a tobacco use cessation program or to perform community service related to diseases associated with the consumption of tobacco products, and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order [*denying*] **suspending** driving privileges under this subsection, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(4) A minor acting under the supervision of an adult may purchase, attempt to purchase or acquire tobacco products for the purpose of testing compliance with a federal law, state statute, local law or retailer management policy limiting or regulating the delivery of tobacco products to minors.

**SECTION 21.** ORS 471.430 is amended to read:

471.430. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.

(2) For the purposes of this section, personal possession of alcoholic beverages includes the acceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such beverages. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

(4)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (3) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle, as defined in ORS 801.360.

(5) In addition to and not in lieu of any other penalty established by law, a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order [*denying*] **suspending** driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(6) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 [(5)] (4).

(7) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment as provided in ORS 471.432. The

court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this section.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

**SECTION 22.** ORS 742.449 is amended to read:

742.449. An insurer issuing motor vehicle liability insurance policies in this state may not assign an insured or applicant for insurance to a higher risk category than the person would otherwise be assigned to solely because the person has:

(1) Let a prior motor vehicle liability policy lapse, unless the person was in violation of ORS 806.010 at any time after the prior policy lapsed; or

(2) Had driving privileges suspended pursuant to ORS 809.280 [(7) or (9)] **(6) or (8)** if the suspension is based on a nondriving offense.

**SECTION 23.** ORS 742.562 is amended to read:

742.562. (1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) Nonpayment of premium.

(b) Fraud or material misrepresentation affecting the policy or in the presentation of a claim thereunder, or violation of any of the terms or conditions of the policy.

(c) The named insured or any operator either resident in the same household or who customarily operates an automobile insured under the policy has had driving privileges suspended or revoked pursuant to law during the policy period, or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date. An insurer may not cancel a policy for the reason that the driving privileges of the named insured or operator were suspended pursuant to ORS 809.280 [(7) or (9)] **(6) or (8)** if the suspension was based on a nondriving offense.

(2) This section shall not apply to any policy or coverage which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(3) This section shall not apply to nonrenewal.

**SECTION 24.** ORS 742.566 is amended to read:

742.566. (1) An insurer shall offer renewal of a policy, contingent upon payment of premium as stated in the offer, to an insured unless the insurer mails or delivers to the named insured, at the address shown in the policy, at least 30 days' advance notice of nonrenewal. Such notice shall contain or be accompanied by a statement of the reason or reasons for nonrenewal.

(2) The insurer shall not be required to notify the named insured or any other insured of nonrenewal of the policy if the insurer has mailed or delivered a notice of expiration or cancellation on or prior to the 30th day preceding expiration of the policy period.

(3) Notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any replacement or succeeding automobile insurance policy, with respect to any automobile designated in both policies.

(4) An insurer may not refuse to renew a policy for the reason that the driving privileges of the named insured or any operator either resident in the same household or who customarily operates an automobile insured under the policy were suspended pursuant to ORS 809.280 [(7) or (9)] **(6) or (8)** if the suspension was based on a nondriving offense.

**SECTION 25.** ORS 746.265 is amended to read:

746.265. (1) Subject to subsection (2) of this section, when an individual applies for a policy or a renewal of a policy of casualty insurance providing automobile liability coverage, uninsured mo-

torist coverage, automobile medical payments coverage or automobile physical damage coverage on an individually owned passenger vehicle including pickup and panel trucks and station wagons, the insurer may consider the abstract of the nonemployment driving record of the individual under ORS 802.220:

(a) For the purpose of determining whether to issue or renew the individual's policy.

(b) For the purpose of determining the rates of the individual's policy.

(2) For the purposes specified in subsection (1) of this section, an insurer issuing or renewing a policy described in subsection (1) of this section shall not consider any:

(a) Accident or conviction for violation of motor vehicle laws that occurred more than three years immediately preceding the application for the policy or renewal of the policy;

(b) Diversion agreements under ORS 813.220 that were entered into more than three years immediately preceding the application for the policy or renewal of the policy; or

(c) Suspension of driving privileges pursuant to ORS 809.280 [(7) or (9)] **(6) or (8)** if the suspension is based on a nondriving offense.

(3) Subsection (2) of this section does not apply if an insurer considers the nonemployment driving record of an individual under ORS 802.220 for the purpose of providing a discount to the individual.

**SECTION 26.** ORS 801.477 is amended to read:

801.477. "Serious traffic violation" means:

(1) A violation, while operating a motor vehicle and holding a commercial driver license, of:

(a) ORS 811.140, reckless driving;

(b) Any law establishing a speed limit, if the person is operating the vehicle 30 miles per hour or more above the posted limit and a court [*imposes*] **orders** a suspension under ORS 811.109; or

(c) Any law establishing a speed limit, if the person is operating the vehicle at a speed of 100 miles per hour or greater.

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

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

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

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

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

(e) ORS 811.140, reckless driving.

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

(g) ORS 811.370, failure to drive within a lane.

(h) ORS 811.410, unsafe passing on the left.

(i) ORS 811.415, unsafe passing on the right.

(j) ORS 811.485, following too closely.

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

(L) Any law of another jurisdiction that corresponds to an Oregon law described in this section.

**SECTION 27.** ORS 807.250 is amended to read:

807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions under ORS 813.500 and 813.520, the Department of Transportation may not issue a hardship permit under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction of any of the following unless the person submits to the department a recommendation from the judge before whom the person was convicted:

(a) ORS 811.140.

(b) ORS 811.540.

(c) Driving while under the influence of intoxicants. If a person's driving privileges are suspended for a conviction for driving while under the influence of intoxicants and the person is determined under ORS 813.500 to have a problem condition involving alcohol, inhalants or controlled substances as described in ORS 813.040, the judge must:

(A) Make the recommendation with reference to the best interest of the public as well as of the defendant and the recommendation must be in writing.

(B) Recommend times, places, routes and days minimally necessary for the person to seek or retain employment, to attend any alcohol or drug treatment or rehabilitation program or to receive necessary medical treatment for the person or a member of the person's immediate family.

(2) The department may not issue a hardship permit to a person whose suspension of driving privileges is based on a conviction described in ORS 809.265.

(3) The department may not issue a hardship permit to a person whose driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783.

(4) The department may not issue a hardship permit to a person whose driving privileges are suspended pursuant to ORS 809.280 [(5)] (4) or 809.416 (1) or (2).

**SECTION 28.** ORS 809.020 is amended to read:

809.020. When the Department of Transportation receives an order from a court to suspend the registration of a vehicle, the department shall respond to the order as provided in this section based on the type of suspension. If the court orders the suspension of registration under:

(1) ORS 809.120, the department shall impose the suspension as [*recommended*] **ordered** by the court.

(2) ORS 809.010, the department shall forthwith suspend the registration and require the owner to return the registration card and plates. When the department suspends a registration under this subsection the department shall:

(a) Destroy the registration card and plates; and

(b) Issue a new registration card and new plates to the owner upon expiration of the period specified by the court in its order upon payment by the owner to the department of a restoration fee established under ORS 809.030. The department may not charge the owner any fee for the card and plates other than the restoration fee.

(3) ORS 809.130, the department, after opportunity for hearing under ORS 809.040, shall suspend the registration of the person's employer's vehicles, until notified by the court to reinstate the registration and until the department receives proof of compliance with future responsibility filings from the employer, if the department determines that all of the following apply:

(a) A judgment of the type described under ORS 806.040 was rendered against the person.

(b) The judgment has remained unsettled as described by ORS 809.470 for 60 days.

(c) The judgment continues to be unsettled.

(d) At the time of the accident that is the source of the judgment, the employee was driving, with the permission of the employer, a vehicle owned, operated or leased by the employer.

**SECTION 29.** ORS 809.240 is amended to read:

809.240. (1) If a person is convicted of an offense that will result in mandatory suspension or revocation under ORS 809.409, 809.411, 809.413, 813.400 or 813.403, the trial judge shall:

(a) [*Impose*] **Order** the revocation or suspension at the time of conviction for the required period; and

(b) Comply with the requirements under ORS 809.275 to take possession of the license or driver permit of the person.

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

**SECTION 30.** ORS 809.412 is amended to read:

809.412. If a juvenile court finds a youth to be within the jurisdiction of the juvenile court under ORS 419C.005 for committing an offense that is a ground for suspension or revocation upon conviction under ORS 809.409, 809.411, 809.413, 813.400 or 813.403 or any other law requiring suspension or revocation of driving privileges upon conviction of an offense, the juvenile court shall [*impose*]

**order** the suspension or revocation of driving privileges that is required upon conviction of the offense.

**SECTION 31.** ORS 807.350 is amended to read:

807.350. (1) The Department of Transportation, at any time, may cancel the driving privileges or part of the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the department determines that the person no longer meets the qualifications or requirements for the license, endorsement or permit.

**(2)(a) The department may immediately cancel the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the person is unable to reestablish eligibility under ORS 807.340 and the department determines that:**

**(A) The person is no longer able to safely operate a motor vehicle; and**

**(B) The person may endanger people or property if the person's driving privileges are not immediately canceled.**

**(b) A cancellation under this subsection is subject to a post-imposition hearing under ORS 809.440.**

[2] (3) Upon cancellation under this section, a person whose **driving** privileges are canceled shall surrender to the department any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

[3] (4) If the department cancels driving privileges under this section, the department may provide for the issuance of a license, driver permit or license with endorsement or limitations granting driving privileges for which the person does qualify or meet the requirements. The department may provide for the waiver of all or part of the fees relating to the issuance of a license or driver permit when the department issues a driver permit or license under this subsection, as the department determines equitable.

[4] (5) A person whose driving privileges are canceled under this section may [*only*] regain the canceled driving privileges **only** by reapplying for the privileges and establishing eligibility and qualification for the driving privileges as provided by law.

**Passed by House March 1, 2011**

**Received by Governor:**

**Repassed by House May 31, 2011**

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**Approved:**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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John Kitzhaber, Governor

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Arnie Roblan, Speaker of House

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Peter Courtney, President of Senate

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Kate Brown, Secretary of State