

Enrolled House Bill 2138

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 transportation; creating new provisions; and amending ORS 184.843, 367.802, 801.208, 807.031, 807.100, 809.407, 809.413 and 809.415.

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

SECTION 1. ORS 801.208 is amended to read:

801.208. (1) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles **and 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 qualified emergency service volunteers as defined in ORS 401.358;

(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 recreational vehicle that is operated solely for personal use.

SECTION 2. ORS 807.100 is amended to read:

807.100. (1) A vehicle that may be operated only by the holder of a commercial driver license **or permit** may be operated only when **proof of medical qualification, in a form** [*a medical certificate*] approved by the Department of Transportation, is in the [*licensee's*] **person's** immediate possession [*and has been issued within two years prior to the date of operation of the vehicle*]. The holder of a commercial driver license **or permit** who does not have **proof of medical qualification as** [*a medical certificate*] required by this section may exercise driving privileges granted by a Class C license.

(2) **The department may not issue or renew a commercial driver license or permit and may cancel a commercial driver license or permit if the person does not submit to the de-**

partment, in a form approved by rule, proof of medical qualification to operate a commercial motor vehicle by such a date as required by rule by the department.

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

(4) To the extent possible, rules adopted by the department under this section should be uniform with any applicable federal regulations related to commercial driver license medical qualifications.

SECTION 3. ORS 809.407 is amended to read:

809.407. (1) The driver of a commercial motor vehicle is subject to suspension of the driver's commercial driver license upon conviction of any of the following offenses:

(a) Failure to stop for a railroad signal in violation of ORS 811.455.

(b) Failure to follow rail crossing procedures for high-risk vehicles in violation of ORS 811.460.

(c) Obstructing a rail crossing in violation of ORS 811.475.

(d) Failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train in violation of ORS 811.462.

(2) Upon receipt of a record of conviction for an offense described in subsection (1) of this section, the Department of Transportation shall suspend the convicted person's commercial driver license for the following periods of time:

[(a) Sixty days, upon receipt of a first record of conviction.]

[(b) One hundred and twenty days, if commission of a second offense and the conviction for a separate offense occur within a three-year period.]

[(c) One year, if commission of a third or subsequent offense and two or more convictions for separate offenses occur within a three-year period.]

(a) Sixty days if:

(A) The conviction is the person's first conviction of an offense described in subsection (1) of this section; or

(B) The date the person committed an offense described in subsection (1) of this section is not within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction.

(b) One hundred and twenty days if:

(A) The conviction is the person's second conviction of an offense described in subsection (1) of this section;

(B) The date the person committed the second offense is within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction; and

(C) The convictions arose out of separate incidents.

(c) One year if:

(A) The conviction is the person's third or subsequent conviction for an offense described in subsection (1) of this section;

(B) The date the person committed the latest offense is within three years of the dates the person committed two or more other offenses, as described in subsection (1) of this section and for which there were convictions; and

(C) The convictions arose out of separate incidents.

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

SECTION 4. 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 or aggravated vehicular homicide or aggravated driving while suspended or revoked. 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]* **date the person committed the violation** occurred within three years of **the date the person committed another** *[a previous conviction for a]* serious traffic violation **for which there is a record of conviction** and if the *[convictions]* **violations** 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 **and the person committed both serious traffic violations** within *[the]* a 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 **and the person committed three or more serious traffic violations** within *[the]* a 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 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 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 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 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 5. ORS 809.415 is amended to read:

809.415. (1)(a) The Department of Transportation shall suspend the driving privileges of a person who has a judgment of the type described under ORS 806.040 rendered against the person if the person does not settle the judgment in the manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person does one of the following:

(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer that has been found by the department to be obligated to pay the judgment, provided that there has been no final adjudication by a court that the insurer has no such obligation.

(C) Gives evidence to the department that a period of seven years has elapsed since the entry of the judgment.

(D) Receives from the court that rendered the judgment an order permitting the payment of the judgment in installments.

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

(2)(a) The department shall suspend the driving privileges of a person who falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or of a person who, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) Notwithstanding paragraph (a) of this subsection, the department may suspend under this subsection only if proof of compliance with financial responsibility requirements as of the date of the letter of verification from the department under ORS 806.150 is not submitted within 30 days after the date of the mailing of the department's demand under ORS 806.160.

(c) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(3)(a) The department shall suspend the driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or fails to provide new proof for future responsibility filings when requested by the department.

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(c) A person whose initial obligation to make future responsibility filings is not based upon a conviction or other action by a court is entitled to a hearing under ORS 809.440 prior to a suspension under this subsection. A person whose obligation to make future responsibility filings is based upon a conviction or other action by a court is entitled to administrative review under ORS 809.440 of a suspension under this subsection. A person whose suspension under this subsection is based on lapses in filing after the initial filing has been made is entitled to administrative review under ORS 809.440.

(4)(a) The department shall suspend driving privileges when provided under ORS 809.416. The suspension shall continue until the earlier of the following:

(A) The person establishes to the satisfaction of the department that the person has performed all acts necessary under ORS 809.416 to make the person not subject to suspension.

(B) Ten years from the date the suspension is imposed if the suspension is imposed for a reason described in ORS 809.416 (1) or (2) or five years from the date the suspension is imposed if the suspension is imposed for the reason described in ORS 809.416 (3).

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

(5) Upon determination by the department that a person has committed an act that constitutes an offense described in ORS 809.310, the department may suspend any driving privileges or any identification card of the person determined to have committed the act. A suspension under this subsection shall continue for a period of one year.

(6) Upon determination by the department that a person has submitted false information to the department for the purpose of establishing or maintaining qualification to operate a commercial motor vehicle or hold a commercial driver license, the department may suspend the commercial driver license or the person's right to apply for a commercial driver license. A suspension under this subsection shall continue for a period of one year.

SECTION 6. 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 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

(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 7. ORS 184.843 is amended to read:

184.843. (1) There is created the Road User Fee Task Force.

(2) The purpose of the task force is to develop a design for revenue collection for Oregon's roads and highways that will replace the current system for revenue collection. The task force shall consider all potential revenue sources.

(3) The task force shall consist of 12 members, as follows:

(a) Two members shall be members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(b) Two members shall be members of the Senate, appointed by the President of the Senate.

(c) Four members shall be appointed by the Governor, the Speaker and the President acting jointly. In making appointments under this paragraph, the appointing authorities shall consider individuals who are representative of the telecommunications industry, of highway user groups, of the Oregon transportation research community and of national research and policy-making bodies such as the Transportation Research Board and the American Association of State Highway and Transportation Officials.

(d) One member shall be an elected city official, appointed by the Governor, the Speaker and the President acting jointly.

(e) One member shall be an elected county official, appointed by the Governor, the Speaker and the President acting jointly.

(f) Two members shall be members of the Oregon Transportation Commission, appointed by the chairperson of the commission.

(4)(a) The term of a legislator appointed to the task force is four years except that the legislator ceases to be a member of the task force when the legislator ceases to be a legislator. A legislator may be reappointed to the task force.

(b) The term of a member of the task force appointed under subsection (3)(c) of this section is four years and the member may be reappointed.

(c) The term of a member of the task force appointed under subsection (3)(d) or (e) of this section is four years except that the member ceases to be a member of the task force when the member ceases to be a city or county elected official. A city or county elected official may be reappointed to the task force.

(d) The term of a member of the Oregon Transportation Commission appointed to the task force is four years except that the member ceases to be a member of the task force when the member ceases to be a member of the commission. A member of the commission may be reappointed to the task force.

(5) A legislator appointed to the task force is entitled to per diem and other expense payments as authorized by ORS 171.072 from funds appropriated to the Legislative Assembly. Other members of the task force are entitled to compensation and expenses as provided in ORS 292.495.

(6) The Department of Transportation shall provide staff to the task force.

(7) The task force shall study alternatives to the current system of taxing highway use through motor vehicle fuel taxes. The task force shall gather public comment on alternative approaches and shall make recommendations to the Department of Transportation and the Oregon Transportation Commission on the design of pilot programs to be used to test alternative approaches. The task force may also make recommendations to the department and the commission on criteria to be used to evaluate pilot programs. The task force may evaluate any pilot program implemented by the department and report the results of the evaluation to the Legislative Assembly, the department and the commission.

(8) When the task force is studying alternatives to the current system of taxing highway use through motor vehicle fuel taxes and developing recommendations on the design of pilot programs to test alternative approaches under subsection (7) of this section, the task force shall:

(a) Take into consideration the availability, adaptability, reliability and security of methods that might be used in recording and reporting highway use.

(b) Take into consideration the protection of any personally identifiable information used in reporting highway use.

(c) Take into consideration the ease and cost of recording and reporting highway use.

(d) Take into consideration the ease and cost of administering the collection of taxes and fees as an alternative to the current system of taxing highway use through motor vehicle fuel taxes.

(e) Take into consideration effective methods of maintaining compliance.

(f) Consult with highway users and transportation stakeholders, including representatives of vehicle users, vehicle manufacturers and fuel distributors.

[(8) In addition to the requirements of subsection (9) of this section, the task force shall propose to the Seventy-second Legislative Assembly options for the design of a revenue collection system for Oregon's roads and highways that would replace the current system for revenue collection.]

(9) The task force shall report to each **odd-numbered year** regular session of the Legislative Assembly on the work of the task force, the department and the commission in designing, implementing and evaluating pilot programs.

(10) Official action by the task force requires the approval of a majority of the members of the task force.

(11) Notwithstanding ORS 171.130 and 171.133, the task force by official action may recommend legislation. Legislation recommended by the task force must indicate that it is introduced at the request of the task force. Legislative measures proposed by the task force shall be prepared in time for pre-session filing with the Legislative Counsel by December 15 of the year preceding a regular session of the Legislative Assembly.

SECTION 8. ORS 367.802 is amended to read:

367.802. As used in ORS 367.800 to 367.824:

(1) "Agreement" means a written agreement, including but not limited to a contract, for a transportation project that is entered into under ORS 367.806.

(2) "Private entity" means any entity that is not a unit of government, including but not limited to a corporation, partnership, company, nonprofit organization or other legal entity or a natural person.

(3) "Transportation project" or "project" means any proposed or existing undertaking that facilitates any mode of transportation in this state **or that facilitates the collection of taxes and fees as an alternative to the motor vehicle fuel taxes imposed under ORS 319.020 and 319.530.**

(4) "Unit of government" means any department or agency of the federal government, any state or any agency, office or department of a state, any city, county, district, commission, authority, entity, port or other public corporation organized and existing under statutory law or under a voter-approved charter and any intergovernmental entity created under ORS 190.003 to 190.130, 190.410 to 190.440 or 190.480 to 190.490.

SECTION 9. (1) The amendments to ORS 807.100 by section 2 of this 2011 Act apply to commercial driver licenses and permits issued or renewed on or after January 30, 2012.

(2) The amendments to ORS 809.407 and 809.413 by sections 3 and 4 of this 2011 Act apply to offenses that occur on or after the effective date of this 2011 Act.

Passed by House March 1, 2011

Received by Governor:

Repassed by House June 10, 2011

.....M.,....., 2011

Approved:

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Ramona Kenady Line, Chief Clerk of House

.....M.,....., 2011

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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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Passed by Senate June 8, 2011

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Peter Courtney, President of Senate

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Kate Brown, Secretary of State