

House Bill 2152

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Attorney General's Underage Drinking Task Force)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that driving privileges of certain minors be suspended if minor is issued citation for attempting to purchase, purchasing, acquiring or possessing alcoholic beverages.

Requires that police officers issue notices of intent to suspend, and confiscate Oregon driver licenses and permits, when police officers cite certain minors for attempting to purchase, purchasing, acquiring or possessing alcoholic beverages. Specifies contents of notices of intent to suspend.

Authorizes issuance of temporary driving permits, hardship driver permits and emergency driver permits under certain circumstances.

Establishes procedure for seeking administrative and judicial review of suspension.

Imposes surcharge on certain fees collected by Department of Transportation for reinstatement of driving privileges. Provides that surcharge be in amount determined by department to be necessary to pay costs of implementing Act.

A BILL FOR AN ACT

1
2 Relating to suspension of driving privileges; creating new provisions; and amending ORS 807.220 and
3 807.240.

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

5 **SECTION 1. Sections 2 to 16 of this 2007 Act are added to and made a part of the Oregon**
6 **Vehicle Code.**

7 **SECTION 2. Suspension of driving privileges for purchase or possession of liquor by per-**
8 **son under 21; confiscation of license or permit.** (1) Subject to the requirements of sections
9 2 to 15 of this 2007 Act, the driving privileges of a person shall be suspended if the person
10 violates ORS 471.430 (1) when the person is at least 15 years of age but under 21 years of age.

11 (2) If a police officer issues a citation for violation of ORS 471.430 (1) to a person de-
12 scribed in subsection (1) of this section, the police officer shall give the person a notice of
13 intent to suspend and immediately confiscate from the person any driver license or permit
14 issued by this state that grants driving privileges to the person. The notice shall be in a form
15 prepared and provided by the Department of Transportation. The notice must include the
16 information described in section 3 of this 2007 Act.

17 (3) A police officer shall issue a notice of intent to suspend under subsection (2) of this
18 section even though the person has a driver license or permit issued by another state that
19 is not confiscated by the police officer.

20 (4) When a police officer issues a notice of intent to suspend to a person under this
21 section, the police officer shall issue a temporary driving permit to the person if the person
22 qualifies for a temporary driving permit under section 4 of this 2007 Act.

23 **SECTION 3. Notice of intent to suspend; statement of rights and consequences.** (1) A
24 notice of intent to suspend issued under section 2 of this 2007 Act must contain the address
25 at which a request for hearing under section 6 (2) of this 2007 Act may be delivered and such

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 other information as may be required by the Department of Transportation under subsection
 2 (3) of this section.

3 (2) A notice of intent to suspend issued under section 2 of this 2007 Act must contain a
 4 statement of rights and consequences that advises the person issued the notice that:

5 (a) Purchase or possession of alcoholic beverages by persons under 21 years of age is il-
 6 legal in Oregon under the provisions of ORS 471.430 (1).

7 (b) The driving privileges of a person are subject to suspension if the person attempts to
 8 purchase, purchases, acquires or possesses alcoholic beverages when the person is under 21
 9 years of age.

10 (c) The person has been issued the notice because the person has been cited for violating
 11 ORS 471.430 (1).

12 (d) The suspension is scheduled to become effective on the 31st day after delivery of the
 13 notice.

14 (e) The person has the right to a hearing to challenge the validity of the suspension be-
 15 fore the suspension becomes effective and that the person must make a written request to
 16 the Department of Transportation for a hearing.

17 (f) A request for a hearing must be received by the department at the address specified
 18 on the notice not later than 10 days after the date the citation is issued.

19 (g) The hearing will be held before the suspension becomes effective.

20 (h) The driving privileges of the person will not be suspended if the person prevails at the
 21 hearing.

22 (i) If the person does not prevail at the hearing, the suspension will be for a period of
 23 90 days if it is the person's first suspension under sections 2 to 15 of this 2007 Act and for
 24 a period of one year if the person has been suspended under sections 2 to 15 of this 2007 Act
 25 one or more times in the past.

26 (j) The person may be eligible for a hardship driver permit during the suspension period,
 27 but in no event will the person be eligible for a hardship driver permit sooner than 30 days
 28 after the suspension period begins.

29 (k) The person may be eligible for an emergency driver permit during the suspension
 30 period.

31 (L) The person is not eligible for a hardship driver permit or emergency driver permit if
 32 the person has been suspended three or more times under sections 2 to 15 of this 2007 Act.

33 (m) Oregon law requires that police officers issuing a notice must confiscate the Oregon
 34 driver license or permit of the person violating the law.

35 (n) The police officer will issue a temporary driving permit to the person if the person
 36 currently has driving privileges under Oregon law.

37 (o) A temporary driving permit issued by the police officer is valid for 30 days.

38 (3) The department may prescribe a form for notices of intent to suspend issued under
 39 section 2 of this 2007 Act and may include in the form all information that the department
 40 finds necessary.

41 **SECTION 4. Temporary driving permit.** (1) A police officer shall issue a temporary driv-
 42 ing permit to a person who has received a notice of intent to suspend under section 2 of this
 43 2007 Act unless:

44 (a) The person has not been issued an Oregon driver license or permit;

45 (b) The person has been issued an Oregon driver license or permit, but the license or

1 permit is not in the possession of the person at the time the notice is issued;

2 (c) The driving privileges of the person are suspended, revoked or canceled, or the person
3 is not entitled to driving privileges for any other reason, at the time the notice is issued; or

4 (d) The person has been issued a driver license or permit by another state or jurisdiction.

5 (2) Subject to the requirements of sections 2 to 15 of this 2007 Act, the Department of
6 Transportation shall establish the form and content of the temporary driving permits issued
7 under this section and provide law enforcement agencies with copies of those forms. All
8 temporary driving permits issued by police officers are issued on behalf of the department.

9 (3) A fee may not be charged for issuing a temporary driving permit under this section.
10 A temporary driving permit is valid for 30 days after the date of issuance of the citation and
11 grants the same driving privileges as those granted by the driver license or permit previously
12 issued to the person.

13 **SECTION 5. Report to department.** (1) Within such time as may be established by rule
14 of the Department of Transportation, a police officer who issues a notice of intent to suspend
15 under section 2 of this 2007 Act shall deliver to the department:

16 (a) Any driver license or permit confiscated by the police officer;

17 (b) A copy of the notice issued by the police officer; and

18 (c) A report containing the information described in subsection (2) of this section.

19 (2) A police officer who issues a notice of intent to suspend under section 2 of this 2007
20 Act shall deliver to the department a report that indicates:

21 (a) That the police officer had reasonable grounds to believe that the cited person at-
22 tempted to purchase, purchased, acquired or was in personal possession of alcoholic
23 beverages;

24 (b) That the police officer cited the person for violation of ORS 471.430 (1);

25 (c) The date the person was issued a citation for violation of ORS 471.430 (1);

26 (d) That the police officer gave the cited person a notice of intent to suspend; and

27 (e) Such other information as may be required by the department.

28 (3) The department may require that police officers use one or more forms specified by
29 the department for the report required by subsection (2) of this section.

30 **SECTION 6. Suspension upon receipt of police report; request for hearing.** (1) Upon re-
31 ceiving a report that complies with section 5 of this 2007 Act, the Department of Transpor-
32 tation shall suspend the driving privileges of the cited person on the 31st day after the date
33 the citation was issued unless the department determines after a hearing that one or more
34 of the requirements for suspension of driving privileges under sections 2 to 15 of this 2007
35 Act have not been met. Notwithstanding ORS 809.430, the department is not required to give
36 any notice of intent to suspend in addition to that provided under section 2 of this 2007 Act.

37 (2) A person who has received a notice of intent to suspend under section 2 of this 2007
38 Act may request a hearing to determine whether all of the requirements for suspension of
39 driving privileges under sections 2 to 15 of this 2007 Act have been met. The request must
40 be in writing and must be received by the department not later than 10 days after the date
41 the citation was issued. If the department receives a request for hearing within the time
42 allowed, the department shall provide a hearing as provided in section 7 of this 2007 Act.

43 **SECTION 7. Hearing.** (1) Except as otherwise provided under this section, a hearing on
44 a notice of intent to suspend issued under section 2 of this 2007 Act shall be conducted as a
45 contested case hearing under ORS chapter 183. The hearing shall be conducted by an ad-

1 administrative law judge assigned from the Office of Administrative Hearings established under
 2 ORS 183.605.

3 (2) Unless otherwise agreed to by the cited person and the Department of Transportation,
 4 a hearing under this section shall be held in a place designated by the department that is
 5 either in the county where the alleged offense occurred or that is not more than 100 miles
 6 from the place where the offense is alleged to have occurred.

7 (3) The department may authorize the administrative law judge to issue a final order in
 8 any hearing under this section.

9 (4) A person who requests a hearing under this section and who fails without just cause
 10 to appear at the hearing in person or through an attorney waives the right to a hearing.
 11 Notwithstanding ORS 183.415 (6), the department is not required to make any showing at a
 12 hearing if a person waives the right to a hearing under this subsection.

13 (5) Except as provided in section 8 of this 2007 Act, the department shall hold the hearing
 14 and issue a final order within 30 days after the date the citation is issued.

15 (6) The department or its authorized representative may administer oaths and shall issue
 16 subpoenas for the attendance of witnesses and production of documents at the hearing as
 17 may be requested by the cited person or the department.

18 (7) Testimony and exhibits may be introduced at a hearing under this section. Testimony
 19 shall be recorded by a means designated by the department. The record of the proceedings
 20 may not be transcribed unless requested by the department or by the cited person.

21 **SECTION 8. Waiver of failure to request or appear at hearing; delayed hearings and or-**
 22 **ders.** (1) Notwithstanding sections 6 and 7 of this 2007 Act, the Department of Transportation
 23 may waive the failure of a person to request a hearing within the time allowed or the failure
 24 of a person to appear at a hearing under section 7 of this 2007 Act, if:

25 (a) The person was unable to request a hearing or appear at the hearing because of
 26 physical incapacity that is verified by a physician to the satisfaction of the department to
 27 be of a nature that would prevent the person from making the request or attending the
 28 hearing.

29 (b) The person was unable to request a hearing or appear at the hearing because of a
 30 death in the immediate family of the person, verified to the satisfaction of the department.

31 (c) The person did not request a hearing or appear at the hearing because of an error
 32 of the department.

33 (d) The department finds other just cause, as established by rules of the department.

34 (2) The department may hold a hearing and issue a final order later than the times
 35 specified in section 7 of this 2007 Act if:

36 (a) The department has waived the failure of a person to request a hearing within the
 37 time allowed or the failure of a person to appear at a hearing under subsection (1) of this
 38 section;

39 (b) The person requesting the hearing requests a change of administrative law judge un-
 40 der ORS 183.645;

41 (c) The police officer who issued the notice of intent to suspend, or any other police of-
 42 ficer who has been subpoenaed to appear at the hearing, is unable to appear at the hearing
 43 due to the officer's illness, vacation or official duty conflicts; or

44 (d) The department finds other just cause, as established by rules of the department.

45 (3)(a) Notwithstanding ORS 809.430, the department is not required to give any additional

1 notice of intent to suspend if a delayed hearing is held, or delayed final order is issued, pur-
 2 suant to subsection (2) of this section. If a delayed hearing is held pursuant to subsection (2)
 3 of this section, the department shall issue a final order within 10 days after the hearing is
 4 held.

5 (b) The department by rule shall establish conditions that constitute official duty con-
 6 flicts for the purposes of subsection (2)(c) of this section. A hearing may not be rescheduled
 7 more than once under subsection (2)(c) of this section.

8 (4)(a) Except as provided in paragraph (b) of this subsection, the department shall sus-
 9 pend the driving privileges of a person on the date specified in section 6 of this 2007 Act even
 10 though a delayed hearing is held, or delayed final order is issued, pursuant to this section.

11 (b) The department may not suspend the driving privileges of a person on the date
 12 specified in section 6 of this 2007 Act if:

13 (A) A delayed hearing is held pursuant to subsection (2)(a) of this section because the
 14 person failed to request a hearing or appear at a hearing due to an error of the department;
 15 or

16 (B) A delayed hearing is held pursuant to subsection (2)(c) of this section.

17 (5) If the department delays suspension of a person's driving privileges under subsection
 18 (4)(b) of this section, and after the delayed hearing is conducted the administrative law judge
 19 determines that the requirements for a suspension of driving privileges specified in section
 20 9 of this 2007 Act have been met, the department shall suspend the driving privileges of the
 21 person five days after the final order is issued.

22 **SECTION 9. Matters considered at hearing.** (1) A hearing under section 7 of this 2007 Act
 23 is limited to determining whether the suspension is valid. A suspension under sections 2 to
 24 15 of this 2007 Act is valid if:

25 (a) The person to be suspended violated ORS 471.430 (1).

26 (b) A police officer issued a citation for violation of ORS 471.430 (1) to the person to be
 27 suspended.

28 (c) The person to be suspended, at the time of the citation, was at least 15 years of age
 29 but under 21 years of age.

30 (d) The person to be suspended was given a notice of intent to suspend as required by
 31 section 2 of this 2007 Act.

32 (2) This section shall be narrowly construed so as to effect the legislative purpose of
 33 limiting the scope of hearings under sections 2 to 15 of this 2007 Act.

34 **SECTION 10. Role of police officer in hearing.** Notwithstanding ORS 9.160 and 9.320, in
 35 any hearing under section 7 of this 2007 Act in which a city attorney or district attorney does
 36 not appear, the police officer who made the report required by section 5 of this 2007 Act may
 37 present evidence, examine and cross-examine witnesses and make arguments relating to:

38 (1) The application of statutes and rules to the facts in the case;

39 (2) The literal meaning of the statutes or rules at issue in the case;

40 (3) The admissibility of evidence; and

41 (4) Proper procedures to be used in the hearing.

42 **SECTION 11. Judicial review of order after hearing.** (1) If a hearing has been conducted
 43 under section 7 of this 2007 Act and the administrative law judge has determined that the
 44 requirements for a suspension of driving privileges specified in section 9 of this 2007 Act have
 45 been met, the person requesting the hearing may seek judicial review of the final order in

1 the proceeding in the manner provided by this section.

2 (2) A person seeking judicial review of a final order under this section must file a petition
 3 in the circuit court for the county where the person resides or, if the person does not reside
 4 in Oregon, in the circuit court of the county in which the violation occurred. The petition
 5 must be filed not more than 30 days after issuance of the final order in the proceeding.

6 (3) Upon the filing of a petition under this section, the court shall set the matter for
 7 hearing and give notice to the Department of Transportation and the petitioner of the date
 8 and place of the hearing. The hearing shall be set not earlier than 10 days after the notice
 9 is sent to the department and the petitioner, unless the hearing is waived by the department
 10 and the petitioner.

11 (4) A suspension of driving privileges imposed under sections 2 to 15 of this 2007 Act re-
 12 mains in effect pending any appeal or remand of a final order, and the suspension may not
 13 be stayed pending appeal or decision on remand.

14 SECTION 12. Procedure for judicial review. (1) The petition to the circuit court appealing
 15 an order of the Department of Transportation filed under section 11 of this 2007 Act must
 16 state the ground or grounds upon which the petitioner contends the order should be reversed
 17 or remanded.

18 (2) The court shall conduct the review without a jury. Review shall be limited to the re-
 19 cord of the department's hearing.

20 (3) The petitioner or the department may appeal from the judgment of the court to the
 21 Court of Appeals.

22 (4) Upon review in the circuit court and Court of Appeals, the court may affirm, reverse
 23 or remand the order as follows:

24 (a) If the court finds that the department has erroneously interpreted a provision of law
 25 and that a correct interpretation compels a particular action, the court shall:

26 (A) Set aside or modify the order; or

27 (B) Remand the case to the department for further action under a correct interpretation
 28 of the provision of law.

29 (b) The court shall remand the order to the department if the court finds the depart-
 30 ment's exercise of discretion to be:

31 (A) Outside the range of discretion delegated to the department by law;

32 (B) Inconsistent with a department rule, an officially stated department position or a
 33 prior department practice, if the inconsistency is not explained by the department; or

34 (C) Otherwise in violation of a constitutional or statutory provision.

35 (c) The court shall set aside or remand the order if the court finds that the order is not
 36 supported by substantial evidence in the record.

37 (5) Upon review, the court shall affirm the department's order unless the court finds a
 38 ground for setting aside, modifying or remanding to the department under a specified pro-
 39 vision of this section.

40 (6) In any review under this section, the court shall also review de novo determinations
 41 made by the department that are subject to ORS 183.650 (4).

42 SECTION 13. Duration of suspension; eligibility for hardship or emergency driver permit.

43 (1) A suspension of driving privileges under sections 2 to 15 of this 2007 Act is for a period
 44 of:

45 (a) 90 days for the first suspension under sections 2 to 15 of this 2007 Act.

1 (b) One year for a second or subsequent suspension under sections 2 to 15 of this 2007
2 Act.

3 (2) Except as provided in subsection (4) of this section, a person is eligible for a hardship
4 driver permit under ORS 807.240 if the person's driving privileges are suspended under
5 sections 2 to 15 of this 2007 Act. A hardship driver permit may not be issued to a person who
6 is eligible for an emergency driver permit under ORS 807.220 (4). A hardship driver permit
7 may be issued under this subsection:

8 (a) Not earlier than 30 days after the suspension period begins if the person is being
9 suspended for the first time under the provisions of sections 2 to 15 of this 2007 Act.

10 (b) Not earlier than 90 days after the suspension period begins if the person is being
11 suspended for the second time under the provisions of sections 2 to 15 of this 2007 Act.

12 (3) Except as provided in subsection (4) of this section, a person under 18 years of age
13 may be eligible for an emergency driver permit under ORS 807.220 (4) if the person's driving
14 privileges are suspended under sections 2 to 15 of this 2007 Act.

15 (4) A hardship driver permit under ORS 807.240 or emergency driver permit under ORS
16 807.220 (4) may not be issued to a person whose driving privileges have been suspended three
17 or more times under sections 2 to 15 of this 2007 Act.

18 **SECTION 14. Erroneous suspensions by reason of false identification.** (1) If the Depart-
19 ment of Transportation determines that the department has erroneously suspended the
20 driving privileges of a person under sections 2 to 15 of this 2007 Act because the person cited
21 for violation of ORS 471.430 (1) gave false identification to the police officer issuing the notice
22 of intent to suspend:

23 (a) The department shall immediately restore the driving privileges of the person erro-
24 neously suspended; and

25 (b) The department shall immediately suspend the driving privileges of the person who
26 gave the false identification, if known.

27 (2) If the department suspends the driving privileges of a person under this section, no-
28 tice of the suspension need only be given to the person in the manner provided by ORS
29 809.430. A person receiving notice under this subsection may request a hearing no later than
30 10 days after the notice is received. The department is not required to conduct a hearing or
31 issue a final order within the times specified in section 7 of this 2007 Act for a suspension
32 under this section.

33 **SECTION 15. Rescission of suspension.** The Department of Transportation shall imme-
34 diately rescind a suspension of driving privileges under section 2 to 15 of this 2007 Act if the
35 person is found by a court to be not guilty of violating ORS 471.430 (1) on the date specified
36 in the citation. The department shall rescind the suspension when the department receives
37 notice from the court of the court's judgment, or when the person presents the department
38 with a certified copy of the judgment of the court clearly showing the person has been found
39 to be not guilty of violating ORS 471.430 (1) on the date specified in the citation.

40 **SECTION 16. Surcharge on fees for reinstatement of driving privileges.** The Department
41 of Transportation by rule may impose a surcharge on the fees provided in ORS 807.370 (23)
42 and (24). The surcharge shall be collected whenever a fee under ORS 807.370 (23) or (24) is
43 collected. The surcharge shall be in an amount determined by the department to be neces-
44 sary to pay the department's costs of implementing sections 2 to 15 of this 2007 Act.

45 **SECTION 17.** (1) Sections 1 to 16 of this 2007 Act become operative July 1, 2008.

1 **(2) Notwithstanding subsection (1) of this section, prior to July 1, 2008, the Department**
 2 **of Transportation may adopt rules and take all other measures determined by the depart-**
 3 **ment to be necessary for implementation of sections 1 to 16 of this 2007 Act on July 1, 2008.**

4 **(3) The surcharge on fees collected under ORS 807.370 (23) and (24) imposed by section**
 5 **16 of this 2007 Act is first applicable to fees collected on or after July 1, 2008.**

6 **SECTION 18.** ORS 807.220 is amended to read:

7 807.220. (1) The Department of Transportation shall provide for the issuance of emergency driver
 8 permits in a manner consistent with this section.

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

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

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

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

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

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

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

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

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

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

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

32 (4) The department may issue an emergency driver permit, if the person qualifies for the permit,
 33 to a person **who is under 18 years of age and** whose driving privileges are suspended under **ORS**
 34 **471.430 (5), under sections 2 to 15 of this 2007 Act, or under** ORS 809.280 because the department
 35 has received an order of denial of driving privileges under ORS 809.260. In addition to other emer-
 36 gencies, a situation that leaves the applicant with no alternative means to travel to and from school
 37 is an emergency for purposes of a permit issued under this subsection.

38 **SECTION 19.** ORS 807.240 is amended to read:

39 807.240. The Department of Transportation shall provide for issuance of hardship driver permits
 40 in a manner consistent with this section. A hardship driver permit grants the driving privileges
 41 provided in this section or under the permit. Except as otherwise provided in this section, a hardship
 42 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to
 43 a license. The following apply to a hardship driver permit:

44 (1) The department may only issue a permit to a person whose driving privileges under the ve-
 45 hicle code have been suspended.

1 (2) Except as provided in ORS 813.520, the department may reinstate the privilege to operate a
 2 motor vehicle of any person whose license to operate a motor vehicle has been suspended by issuing
 3 the person a hardship permit described under this section if such person qualifies under this section,
 4 ORS 807.250, 807.252 and 813.500. However, the department may not issue a hardship permit au-
 5 thORIZING a person to drive a commercial motor vehicle.

6 (3) To qualify for a hardship permit, a person must do all of the following in addition to any
 7 applicable provisions under ORS 807.250, 807.252 and 813.500:

8 (a) The person must submit to the department an application for the permit that demonstrates
 9 the person's need for the permit.

10 (b) The person must present satisfactory evidence, as determined by the department by rule:

11 (A) That the person must operate a motor vehicle as a requisite of the person's occupation or
 12 employment;

13 (B) That the person must operate a motor vehicle to seek employment or to get to or from a
 14 place of employment;

15 (C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment
 16 or rehabilitation program;

17 (D) That the person or a member of the person's immediate family requires medical treatment
 18 on a regular basis and that the person must operate a motor vehicle in order that the treatment
 19 may be obtained; or

20 (E) That the person's driving privileges are **suspended under ORS 809.280 because the de-**
 21 **partment received an order of denial of driving privileges under ORS 809.260, are** suspended
 22 for driving uninsured in violation of ORS 806.010 or **are suspended** for violation of ORS 165.805 or
 23 471.430, and **the person's driving privileges** are not suspended for any other reason, and that the
 24 person must operate a motor vehicle in order to provide necessary services to the person or to a
 25 member of the person's family. The department shall determine by rule what constitutes necessary
 26 services for purposes of this subparagraph. The rule shall include as necessary services, but need
 27 not be limited to, grocery shopping, driving the person or the person's children to school, driving
 28 to medical appointments and caring for elderly family members.

29 (c) If the person is applying for a permit because the person or a member of the person's im-
 30 mediate family requires medical treatment on a regular basis, the person must present, in addition
 31 to any evidence required by the department under paragraph (b) of this subsection, a statement
 32 signed by a licensed physician or certified nurse practitioner that indicates that the person or a
 33 member of the person's immediate family requires medical treatment on a regular basis.

34 (d) The person must show that the person is not incompetent to drive nor a habitual incompe-
 35 tent, reckless or criminally negligent driver as established by the person's driving record in this or
 36 any other jurisdiction.

37 (e) The person must make a future responsibility filing.

38 (f) The person must submit any other information the department may require for purposes of
 39 determining whether the person qualifies under this section, ORS 807.250, 807.252, 813.500 and
 40 813.520.

41 (4) If the department finds that the person meets the requirements of this section and any ap-
 42 plicable requirements under ORS 807.250, 807.252, 813.500 and 813.520, the department may issue the
 43 person a hardship permit, valid for the duration of the suspension or for a shorter period of time
 44 established by the department unless sooner suspended or revoked under this section. If the de-
 45 partment issues the permit for a period shorter than the suspension period, renewal of the permit

1 shall be on such terms and conditions as the department may require. The permit:

2 (a) Shall limit the holder to operation of a motor vehicle only during specified times.

3 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a
4 motor vehicle that the department deems proper or necessary. The limitations may include any
5 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS
6 811.175 or 811.182.

7 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of
8 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or
9 813.510, may suspend or revoke the hardship permit.

10 (6) The fee charged for application or issuance of a hardship driver permit is the hardship driver
11 permit application fee under ORS 807.370. The department may not refund the fee if the application
12 is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit
13 is the same fee as that charged for renewal of a license. The application fee charged under this
14 subsection is in addition to any fee charged for reinstatement of driving privileges under ORS
15 807.370.

16 (7) The department may issue a permit granting the same driving privileges as those suspended
17 or may issue a permit granting fewer driving privileges, as the department determines necessary to
18 assure safe operation of motor vehicles by the permit holder.

19 **(8) A hardship driver permit may not be issued under this section to a person who is el-**
20 **igible for an emergency driver permit under ORS 807.220 (4).**

21 **SECTION 20. The section captions used in this 2007 Act are provided only for the con-**
22 **venience of the reader and do not become part of the statutory law of this state or express**
23 **any legislative intent in the enactment of this 2007 Act.**

24