

**Enrolled**  
**House Bill 2176**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

CHAPTER .....

AN ACT

Relating to medical determination of eligibility for license to operate motor vehicle; amending ORS 807.090, 807.270, 807.710 and 809.419.

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

**SECTION 1.** ORS 807.090 is amended to read:

807.090. (1) If the Department of Transportation determines that a person may be ineligible for a license because the person has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle, the person may establish eligibility for a license[, *notwithstanding the mental or physical condition or impairment*]:

(a) By personally demonstrating to the satisfaction of the department that, notwithstanding the mental or physical condition or impairment, the person is qualified to safely operate a motor vehicle; or

(b) If the department reasonably believes that, notwithstanding the demonstration under paragraph (a) of this subsection, the person's mental or physical condition or impairment affects the person's ability to safely operate a motor vehicle, by [*obtaining a certificate*] **receiving a determination** of eligibility from the [*State Health Officer*] **medical determination officer of the department** under this section.

(2) The [*State Health*] **medical determination** officer shall [*issue to the department a certificate of eligibility required*] **determine that a person is eligible for a license** under this section if an applicant [*for a certificate*] establishes to the satisfaction of the [*State Health*] officer that the person's mental or physical condition or impairment does not affect the person's ability to safely operate a motor vehicle. The [*State Health*] **medical determination** officer shall use the following to [*establish qualification for a certificate of*] **determine the person's** eligibility under this subsection:

(a) A report from the [*applicant's*] **person's** physician, nurse practitioner or physician assistant of the [*applicant's*] **person's** condition or impairment.

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

(c) The [*State Health*] **medical determination** officer may require an examination and a written report of findings and recommendations from a **qualified** physician, nurse practitioner or physician assistant [*designated*] **identified** by the [*State Health*] officer in addition to other reports submitted.

(3) If a person establishes eligibility for a license under this section by [*obtaining a certificate*] **receiving a determination** of eligibility, the department may require the person to reestablish eligibility at reasonable intervals. The frequency of reestablishing eligibility under this subsection

shall be established by the [*State Health*] **medical determination** officer after reviewing **any** recommendations from the physician, nurse practitioner or physician assistant of the person required to reestablish eligibility.

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

**(4) The department may employ any qualified physician, nurse practitioner or physician assistant who holds an unrestricted license in the State of Oregon to perform the duties assigned to the medical determination officer by this section.**

**SECTION 2.** ORS 807.710 is amended to read:

807.710. (1) For the purposes of this section:

(a) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Board of Medical Examiners for the State of Oregon.

(b) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care.

(2) In consultation with medical experts and experts on cognitive or functional impairments, the Department of Transportation shall adopt rules requiring reporting and:

(a) Designating physicians and health care providers required to report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle. If a designated physician or health care provider makes a report to the department in good faith, that person shall be immune from civil liability that might otherwise result from making the report. If a designated physician or health care provider does not make a report, that person shall be immune from civil liability that might otherwise result from not making the report.

(b) Designating the cognitive or functional impairments that are likely to affect a person's ability to safely operate a motor vehicle.

(3) Determinations regarding a person's ability to safely operate a motor vehicle may not be based solely on the diagnosis of a medical condition or cognitive or functional impairment, but must be based on the actual effect of that condition or impairment on the person's ability to safely operate a motor vehicle.

(4) Reports required by the department under this section shall be upon forms prescribed or provided by the department. Each report shall include the person's name, address, date of birth, sex and a description of how the person's current medical status affects the person's ability to safely operate a motor vehicle. The [*State Health Officer*] **department** shall consider this information in determining **the person's eligibility for a driver license or driver permit**. [*whether to issue a certificate of eligibility under ORS 807.090.*]

(5) Except as provided in ORS 802.240, the reports required by the department under this section are confidential and shall be used by the department only to determine the qualifications of persons to operate motor vehicles upon the highways.

**SECTION 3.** ORS 809.419 is amended to read:

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

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

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

(3)(a) The department may suspend the driving privileges of a person who is incompetent to drive a motor vehicle because of a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.

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

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440[, *except that*]. A person who is denied [*a certificate of*] eligibility under ORS 807.090 is entitled [*only to an administrative review under ORS 809.440 of the suspension.*] **to a hearing under ORS 809.440.**

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

(b) Upon revocation under this subsection, the endorsed license shall be surrendered to the department.

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

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

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

**SECTION 4.** ORS 807.270 is amended to read:

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

(1) The department may issue a probationary driver permit to a person whose driving privileges have been revoked as a habitual offender under ORS 809.640.

(2) The department may issue a probationary driver permit that is valid for the duration of the revocation period unless the permit is suspended or revoked.

(3) A probationary driver permit may only be issued to a person while that person's driving privileges and right to apply for driving privileges are otherwise revoked under ORS 809.640 because the person has been determined to be a habitual offender.

(4) The department may not issue a probationary driver permit authorizing operation of a commercial motor vehicle.

(5) The fee charged for application or issuance of a probationary driver permit is the probationary driver permit application fee under ORS 807.370. The department may not refund the fee if the application is denied or if the driver permit is suspended or revoked. The application fee charged under this subsection is in addition to any fee charged for reinstatement of driving privileges under ORS 807.370.

(6) Before an applicant may be issued a probationary driver permit, the applicant must meet the following qualifications in addition to any other qualifications for the permit:

(a) The applicant must successfully complete a driver improvement course approved by the department; and

(b) The applicant must submit a report of a diagnostic examination conducted by a private physician showing to the satisfaction of the [Director of Human Services] **department** that the applicant is physically and mentally competent to **safely** operate a motor vehicle.

(7) A person who is issued a probationary driver permit must continually satisfy the conditions of the permit.

(8) If a person issued a probationary driver permit is convicted of one offense described in ORS 809.600 (1) or more than one offense described in ORS 809.600 (2) within any 12-month period, the permit shall be revoked and no license or permit may be issued for one year from the date of the revocation.

(9) The department may establish by rule additional limitations for a probationary driver permit. The limitations may include any limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS 811.175 and 811.182.

(10) Upon receiving satisfactory evidence of any violation of the limitations placed on a probationary driver permit under this section, the department may suspend or revoke the probationary driver permit.

**Passed by House March 29, 2007**

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Chief Clerk of House

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Speaker of House

**Passed by Senate May 14, 2007**

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President of Senate

**Received by Governor:**

.....M.,....., 2007

**Approved:**

.....M.,....., 2007

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Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2007

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Secretary of State