

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)

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**.

Establishes responsibility of medical determination officer of Department of Transportation to issue determination of eligibility to operate motor vehicle by person with certain impairments.

A BILL FOR AN ACT

1
2 Relating to medical determination of eligibility for license to operate motor vehicle; amending ORS
3 807.090, 807.710 and 809.419.

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

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

6 807.090. (1) If the Department of Transportation determines that a person may be ineligible for
7 a license because the person has a mental or physical condition or impairment that affects the per-
8 son's ability to safely operate a motor vehicle, the person may establish eligibility for a license[,
9 *notwithstanding the mental or physical condition or impairment*]:

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

13 (b) If the department reasonably believes that, notwithstanding the demonstration under para-
14 graph (a) of this subsection, the person's mental or physical condition or impairment affects the
15 person's ability to safely operate a motor vehicle, by [*obtaining a certificate*] **receiving a determi-**
16 **nation** of eligibility from the [*State Health Officer*] **medical determination officer of the depart-**
17 **ment** under this section.

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

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

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

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

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 (3) If a person establishes eligibility for a license under this section by *[obtaining a certificate]*
 2 **receiving a determination** of eligibility, the department may require the person to reestablish el-
 3 igibility at reasonable intervals. The frequency of reestablishing eligibility under this subsection
 4 shall be established by the *[State Health]* **medical determination** officer after reviewing recom-
 5 mendations from the physician, nurse practitioner or physician assistant of the person required to
 6 reestablish eligibility.

7 (4) The *[State Health officer may]* **department may employ or** enter into an agreement to **em-**
 8 **ploy** *[with]* any **qualified** physician, nurse practitioner or physician assistant *[allowing the physician,*
 9 *nurse practitioner or physician assistant]*, **as determined by rule**, to perform the duties assigned to
 10 the *[State Health]* **medical determination** officer by this section.

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

12 807.710. (1) For the purposes of this section:

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

15 (b) “Health care provider” means a person licensed, certified or otherwise authorized or per-
 16 mitted by the laws of this state to administer health care.

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

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

25 (b) Designating the cognitive or functional impairments that are likely to affect a person’s abil-
 26 ity to safely operate a motor vehicle.

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

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

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

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

40 809.419. (1)(a) The Department of Transportation shall suspend the driving privileges of a person
 41 if the department requests the person to submit to examination under ORS 807.340 and the person
 42 fails to appear within a reasonable length of time after being notified to do so or fails to satisfac-
 43 torily complete the required examination. A suspension under this subsection shall continue until
 44 the examination required by the department is successfully completed.

45 (b) Upon suspension under this subsection, the department may issue an identification card to

1 the person for identification purposes as described under ORS 807.400.

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

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

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

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

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

21 (b) Upon revocation under this subsection, the endorsed license shall be surrendered to the de-
 22 partment.

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

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

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

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