

**Enrolled**  
**House Bill 2268**

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 Transportation)

CHAPTER .....

AN ACT

Relating to commercial driver licenses; creating new provisions; and amending ORS 153.090, 801.477, 807.035, 807.370, 809.360, 809.404, 813.052, 813.215 and 825.960.

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

**SECTION 1.** Sections 2 and 3 of this 2007 Act are added to and made a part of the Oregon Vehicle Code.

**SECTION 2.** Notwithstanding any other provision of law, a school bus manufacturer, school bus dealer or school bus mechanic is not required to have a school bus endorsement while operating a school bus that is not transporting students.

**SECTION 3.** "Holds a commercial driver license" means a person holds a commercial driver license that is:

- (1) Valid;
- (2) Expired less than one year; or
- (3) Suspended, but not canceled, revoked.

**SECTION 4.** ORS 813.052 is amended to read:

813.052. (1) When the Department of Transportation receives [*notice*] **notification** that a person has violated an out-of-service order issued under ORS 813.050 or has knowingly violated any other out-of-service order or notice, in addition to suspension of driving privileges imposed under ORS 809.413, the department shall impose a civil penalty of not less than [~~\$1,000~~] **\$1,100** or more than [~~\$2,000~~] **\$2,750** on the operator of the commercial motor vehicle.

(2) For purposes of this section, [*notice*] "**notification**" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.

**SECTION 5.** ORS 825.960 is amended to read:

825.960. (1) When the Department of Transportation receives [*notice*] **notification** that a person has violated an out-of-service order or notice, the department shall impose a civil penalty of not **less than \$2,750 or** more than [~~\$10,000~~] **\$11,000** on the employer of an operator of a commercial motor vehicle if the department finds that the employer knowingly allowed, permitted, authorized or required the operator to violate the order or notice.

(2) For purposes of this section, [*notice*] "**notification**" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice.

(3) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(4) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

**SECTION 6.** ORS 809.360 is amended to read:

809.360. (1) For purposes of determining whether grounds exist for revoking or suspending driving privileges, an unvacated forfeiture of bail in another state equals a conviction.

(2) A suspension or revocation of driving privileges ordered by a court shall run concurrently with any mandatory suspension or revocation ordered by the Department of Transportation and arising out of the same conviction.

(3) Judicial review of orders denying, suspending or revoking a license, except where such suspension or revocation is mandatory, shall be as provided in ORS chapter 183.

(4) Whenever the department or a court has reason under any laws of this state to suspend or revoke the driving privileges of any person who does not hold current driving privileges to operate motor vehicles or whose driving privileges are due to expire during a suspension period, the department or court shall suspend or revoke the right of such person to apply for driving privileges to operate motor vehicles in this state. A suspension or revocation of a right to apply for driving privileges under this subsection shall be for the period provided by law.

(5) Whenever the department or a court has reason under any laws of this state to suspend the commercial driver license of any person who does not hold a current commercial driver license or whose commercial driver license is due to expire during a suspension period, the department or court shall suspend the right of such person to apply for a commercial driver license in this state. A suspension of a right to apply for a commercial driver license under this subsection shall be for the period provided by law.

*[(6) Notwithstanding any other provision of law, a person who holds a farm endorsement described in ORS 807.035 while operating within the limitations of the endorsement is not subject to suspension of a commercial driver license or of the right to apply for a commercial driver license for any offense that would subject the driver of a commercial motor vehicle to such sanction. Nothing in this subsection prohibits suspension of the person's Class C driver license or the right to apply for such a license.]*

**SECTION 7.** 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: *[ORS 811.140, reckless driving.]*

**(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 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), vehicle operating 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 8.** ORS 807.035 is amended to read:

807.035. This section describes the type of driving privileges granted by various endorsements issued by this state. The following endorsements grant the driving privileges described:

- (1) A motorcycle endorsement authorizes a person to operate any motorcycle.
- (2) A hazardous materials endorsement authorizes a person to operate a vehicle transporting hazardous materials.
- (3) A tank vehicle endorsement authorizes a person to operate tank vehicles.
- (4) A passenger endorsement authorizes a person to operate a vehicle that is designed to transport 16 or more persons, including the driver, but that is not a school bus.
- (5) A school bus endorsement authorizes a person to operate a school bus if the person also holds a valid passenger endorsement.

(6) A **double and triple** trailer endorsement authorizes a person to operate a **commercial motor vehicle with** double and triple [*trailers*] **trailer combinations**.

(7) A combined endorsement authorizes a person to operate a tank vehicle, transport hazardous materials and transport hazardous materials in a tank vehicle.

(8) A Class A farm endorsement authorizes a person to:

(a) Operate or tow any vehicle that can be operated by the holder of a Class A commercial driver license if the vehicle is:

- (A) Controlled or operated by a farmer;
- (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;
- (C) Not used in the operation of a common or contract motor carrier; and
- (D) Used within 150 miles of the farmer's farm.

(b) Operate any vehicle described in paragraph (a) of this subsection that is transporting hazardous materials if the vehicle is placarded in accordance with law.

**(c) Operate any vehicle described in paragraph (a) of this subsection that is a tank vehicle or a double trailer combination without holding a tank vehicle endorsement or a double and triple trailer endorsement.**

(9) A Class B farm endorsement authorizes a person to:

(a) Operate or tow any vehicle that can be operated or towed by the holder of a Class B commercial driver license if the vehicle is:

- (A) Controlled or operated by a farmer;
- (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;
- (C) Not used in the operation of a common or contract motor carrier; and
- (D) Used within 150 miles of the farmer's farm.

(b) Operate any vehicle described in paragraph (a) of this subsection that is transporting hazardous materials if the vehicle is placarded in accordance with law.

**(c) Operate any vehicle described in paragraph (a) of this subsection that is a tank vehicle without holding a tank vehicle endorsement.**

**SECTION 9.** ORS 807.370 is amended to read:

807.370. The following are the fees relating to the issuance and renewal of licenses, driver permits and endorsements:

(1) Disability golf cart driver permit fees under ORS 807.210, as follows:

- (a) For issuance, \$38.50.
  - (b) For renewal fee under ORS 807.210, \$26.50.
- (2) Emergency driver permit fee under ORS 807.220, \$18.

- (3) Instruction driver permit issuance fee under ORS 807.280, \$18.
- (4)(a) License issuance fee for a Class C license, \$48.50.
- (b) Fee to take the knowledge test for a Class C license, \$5.
- (c) Fee to take the skills test for a Class C license, \$9.
- (5) License issuance fee for a restricted Class C license, \$48.50.
- (6) License issuance fee for a commercial driver license, whether or not the license contains endorsements, \$70.
- (7) Test fees for a commercial driver license or permit:
  - (a) To take the knowledge test for a Class A commercial license or permit, \$10.
  - (b) To take the skills test for a Class A commercial license, \$70.
  - (c) To take the knowledge test for a Class B commercial license or permit, \$10.
  - (d) To take the skills test for a Class B commercial license, \$70.
  - (e) To take the knowledge test for a Class C commercial license or permit, \$10.
  - (f) To take the skills test for a Class C commercial license, \$70.
- (8) Notwithstanding subsection (6) of this section, for issuance of a commercial driver license of any class when the Department of Transportation accepts a certificate of competency issued under ORS 807.080, \$40 in addition to the fee under subsection (6) of this section.
- (9) Notwithstanding subsection (6) of this section, for original issuance of a school bus endorsement to a person who has a commercial driver license with a passenger endorsement:
  - (a) \$21; or
  - (b) \$61 if the department accepts a certificate of competency issued under ORS 807.080.
- (10) For a farm endorsement, \$26.
- (11) Test fees for the knowledge test for endorsements other than motorcycle and farm endorsements:
  - (a) For a hazardous materials endorsement, \$10.
  - (b) For a tank vehicle endorsement, \$10.
  - (c) For a passenger endorsement, \$10.
  - (d) For a **double and triple** trailer endorsement, \$10.
  - (e) For a school bus endorsement, \$10.
- (12) Fee to take an airbrake knowledge test, \$10.
- (13) Fee to take an airbrake skills test to remove an airbrake restriction, \$56.
- (14) License renewal fee for a commercial driver license, \$50.
- (15) License renewal fee for a Class C license, \$28.50.
- (16) License or driver permit replacement fee under ORS 807.160, \$21.
- (17) Original endorsement issuance fee under ORS 807.170 for a motorcycle endorsement, \$46, in addition to any fees for the endorsed license.
- (18) Special student driver permit fee under ORS 807.230, \$18.
- (19) Student Driver Training Fund eligibility fee under ORS 807.040 and 807.150, \$6.
- (20) Motorcycle Safety Subaccount fee as follows:
  - (a) Upon original issuance of motorcycle endorsements under ORS 807.170, \$28.
  - (b) Upon renewal of a license with a motorcycle endorsement under ORS 807.170, \$28.
- (21) Probationary driver permit application fee under ORS 807.270, \$50.
- (22) Hardship driver permit application fee under ORS 807.240, \$50.
- (23) Fee for reinstatement of revoked driving privileges under ORS 809.390, \$75.
- (24) Fee for reinstatement of suspended driving privileges under ORS 809.380, \$75.
- (25) Fee for reinstatement of right to apply for driving privileges after a delay under ORS 809.280 (10) (1997 Edition), the same as the fee for reinstatement of suspended driving privileges.
- (26) Fee for a special limited vision condition learner's permit under section 3, chapter 277, Oregon Laws 2003, \$13.

**SECTION 10.** ORS 807.370, as amended by section 13, chapter 277, Oregon Laws 2003, section 3, chapter 59, Oregon Laws 2005, and section 11, chapter 649, Oregon Laws 2005, is amended to read:

807.370. The following are the fees relating to the issuance and renewal of licenses, driver permits and endorsements:

- (1) Disability golf cart driver permit fees under ORS 807.210, as follows:
  - (a) For issuance, \$38.50.
  - (b) For renewal fee under ORS 807.210, \$26.50.
- (2) Emergency driver permit fee under ORS 807.220, \$18.
- (3) Instruction driver permit issuance fee under ORS 807.280, \$18.
- (4)(a) License issuance fee for a Class C license, \$48.50.
  - (b) Fee to take the knowledge test for a Class C license, \$5.
  - (c) Fee to take the skills test for a Class C license, \$9.
- (5) License issuance fee for a restricted Class C license, \$48.50.
- (6) License issuance fee for a commercial driver license, whether or not the license contains endorsements, \$70.
  - (7) Test fees for a commercial driver license or permit:
    - (a) To take the knowledge test for a Class A commercial license or permit, \$10.
    - (b) To take the skills test for a Class A commercial license, \$70.
    - (c) To take the knowledge test for a Class B commercial license or permit, \$10.
    - (d) To take the skills test for a Class B commercial license, \$70.
    - (e) To take the knowledge test for a Class C commercial license or permit, \$10.
    - (f) To take the skills test for a Class C commercial license, \$70.
  - (8) Notwithstanding subsection (6) of this section, for issuance of a commercial driver license of any class when the Department of Transportation accepts a certificate of competency issued under ORS 807.080, \$40 in addition to the fee under subsection (6) of this section.
  - (9) Notwithstanding subsection (6) of this section, for original issuance of a school bus endorsement to a person who has a commercial driver license with a passenger endorsement:
    - (a) \$21; or
    - (b) \$61 if the department accepts a certificate of competency issued under ORS 807.080.
- (10) For a farm endorsement, \$26.
- (11) Test fees for the knowledge test for endorsements other than motorcycle and farm endorsements:
  - (a) For a hazardous materials endorsement, \$10.
  - (b) For a tank vehicle endorsement, \$10.
  - (c) For a passenger endorsement, \$10.
  - (d) For a **double and triple** trailer endorsement, \$10.
  - (e) For a school bus endorsement, \$10.
- (12) Fee to take an airbrake knowledge test, \$10.
- (13) Fee to take an airbrake skills test to remove an airbrake restriction, \$56.
- (14) License renewal fee for a commercial driver license, \$50.
- (15) License renewal fee for a Class C license, \$28.50.
- (16) License or driver permit replacement fee under ORS 807.160, \$21.
- (17) Original endorsement issuance fee under ORS 807.170 for a motorcycle endorsement, \$46, in addition to any fees for the endorsed license.
- (18) Special student driver permit fee under ORS 807.230, \$18.
- (19) Student Driver Training Fund eligibility fee under ORS 807.040 and 807.150, \$6.
- (20) Motorcycle Safety Subaccount fee as follows:
  - (a) Upon original issuance of motorcycle endorsements under ORS 807.170, \$28.
  - (b) Upon renewal of a license with a motorcycle endorsement under ORS 807.170, \$28.
- (21) Probationary driver permit application fee under ORS 807.270, \$50.
- (22) Hardship driver permit application fee under ORS 807.240, \$50.
- (23) Fee for reinstatement of revoked driving privileges under ORS 809.390, \$75.
- (24) Fee for reinstatement of suspended driving privileges under ORS 809.380, \$75.

(25) Fee for reinstatement of right to apply for driving privileges after a delay under ORS 809.280 (10) (1997 Edition), the same as the fee for reinstatement of suspended driving privileges.

**SECTION 11.** ORS 813.215 is amended to read:

813.215. A defendant is eligible for diversion if **the defendant meets all of the following conditions:**

(1) The defendant had no charge of an offense of driving while under the influence of intoxicants or its statutory counterpart in any jurisdiction, other than the charge for the present offense, pending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement[;].

(2) The defendant has not been convicted of an offense described in subsection (1) of this section within the period beginning 10 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement[;].

(3) The defendant was not participating in a driving while under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program, other than a program entered into as a result of the charge for the present offense, in this state or in any other jurisdiction on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement[;].

(4) The defendant did not participate in a diversion or rehabilitation program described in subsection (3) of this section, other than a program entered into as a result of the charge for the present offense, within the period beginning 10 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement[;].

(5) The defendant had no charge of an offense of murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle pending in this state or in any other jurisdiction on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement[;].

(6) The defendant has not been convicted of an offense described in subsection (5) of this section within the period beginning 10 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement[;].

(7) The defendant did not *[have]* **hold** a commercial driver license *[at the time]* **on the date** of the **commission of the** offense[;].

(8) The defendant was not operating a commercial motor vehicle at the time of the offense;*and*].

(9) The present driving while under the influence of intoxicants offense did not involve an accident resulting in:

(a) Death of any person *[other than the defendant]*; or

(b) Physical injury as defined in ORS 161.015 to any person other than the defendant.

**SECTION 12.** 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 (2)(b), or pleads guilty under ORS 153.061 (2)(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 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 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 commercial driver license is:**

(a) **Valid;**

(b) **Expired less than one year; or**

(c) **Suspended, but not canceled, revoked.**

**SECTION 13.** ORS 809.404 is amended to read:

809.404. (1) The Department of Transportation shall suspend a person's commercial driver license or right to apply for a commercial driver license if the person is disqualified from holding a commercial driver license under this section. A person is entitled to administrative review under ORS 809.440 of a suspension under this section.

(2) A person is disqualified from holding a commercial driver license if the person has two or more of any of the following in any combination:

(a) A record of conviction for driving while under the influence of intoxicants under ORS 813.010 and the person was driving a motor vehicle or a commercial motor vehicle at the time of the offense.

(b) A suspension of the person's commercial driver license under ORS 813.410 for refusal to submit to a test under ORS 813.100 and the person was driving a motor vehicle or a commercial motor vehicle at the time of the offense.

(c) A suspension of the person's commercial driver license under ORS 813.410 because the person submitted to a breath or blood test and the person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol and the person was driving a commercial motor vehicle at the time of the offense.

(d) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties of a driver and the person was driving a motor vehicle or a commercial motor vehicle at the time of the offense.

(e) A record of conviction of a crime punishable as a felony, other than a felony described in subsection (3) of this section, and the person was driving a motor vehicle or a commercial motor vehicle at the time of the offense.

(f) A record of conviction for driving a commercial motor vehicle while, as a result of prior violations committed while driving a commercial motor vehicle, the person's commercial driver license had been suspended or revoked.

(g) 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.

(3) A person is disqualified from holding a commercial driver license if the person has a record of conviction for 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 a commercial motor vehicle was used. Notwithstanding subsection (4) of this section, the department may not issue or reinstate a commercial driver license for the lifetime of a person whose commercial driver license is suspended under this subsection.

(4) Ten years after a person is disqualified from holding a commercial driver license under subsection (2) of this section, **or 10 years after receiving a lifetime suspension under ORS 809.413 (1), (2), (4) or (5)**, the person may apply to the department for the right to apply for a commercial driver license or for reinstatement of the person's commercial driver license. The department may issue or reinstate a commercial driver license to a person who meets all other requirements for the issuance of a commercial driver license if the department, in the discretion of the department, finds good cause shown and finds that the person voluntarily entered and successfully completed rehabilitation as approved by the department.

(5) Notwithstanding subsection (4) of this section, if a person whose commercial driver license is issued or reinstated under subsection (4) of this section receives a subsequent conviction or suspension described in subsection (2) of this section, the department shall suspend the person's commercial driver license or right to apply for a commercial driver license for the lifetime of the person.

(6) For the purposes of this section:

(a) Second or subsequent records of conviction or suspensions apply only if the convictions or suspensions arose out of separate incidents.

(b) A record of conviction or suspension applies to a person who does not hold a commercial driver license only if the person was driving a commercial motor vehicle at the time of the commission of the offense.



**Passed by House February 15, 2007**

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Chief Clerk of House

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Speaker of House

**Passed by Senate April 9, 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