

# 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)

## 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**.

Exempts certain drivers who operate school buses that are not transporting students from school bus endorsement requirements.

Increases civil penalties for violation of out-of-service orders.

Eliminates exemption for holders of farm endorsements from commercial driver license disqualifications.

Classifies certain speeding offenses committed by holders of commercial driver licenses operating motor vehicles as "serious violations."

Clarifies that farm endorsement permits operation of tankers and double trailer combinations.

Defines phrase "hold commercial driver license."

## A BILL FOR AN ACT

1  
2 Relating to commercial driver licenses; creating new provisions; and amending ORS 153.090, 801.477,  
3 807.035, 807.370, 809.360, 809.404, 813.052, 813.215 and 825.960.

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

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

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

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

12 (1) **Valid;**

13 (2) **Expired less than one year; or**

14 (3) **Suspended, but not canceled, revoked.**

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

16 813.052. (1) When the Department of Transportation receives [*notice*] **notification** that a person  
17 has violated an out-of-service order issued under ORS 813.050 or has knowingly violated any other  
18 out-of-service order or notice, in addition to suspension of driving privileges imposed under ORS  
19 809.413, the department shall impose a civil penalty of not less than [*\$1,000*] **\$1,100** or more than  
20 [*\$2,000*] **\$2,750** on the operator of the commercial motor vehicle.

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

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

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

26 825.960. (1) When the Department of Transportation receives [*notice*] **notification** that a person  
27 has violated an out-of-service order or notice, the department shall impose a civil penalty of not **less**

**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 **than \$2,750 or** more than [~~\$10,000~~] **\$11,000** on the employer of an operator of a commercial motor  
 2 vehicle if the department finds that the employer knowingly allowed, permitted, authorized or re-  
 3 quired the operator to violate the order or notice.

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

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

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

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

15 809.360. (1) For purposes of determining whether grounds exist for revoking or suspending  
 16 driving privileges, an unvacated forfeiture of bail in another state equals a conviction.

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

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

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

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

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

39 **SECTION 7.** ORS 801.477 is amended to read:

40 801.477. “Serious traffic violation” means:

41 (1) A violation, while operating a motor vehicle and holding a commercial driver license, of:  
 42 [~~ORS 811.140, reckless driving.~~]

43 (a) **ORS 811.140, reckless driving;**

44 (b) **Any law establishing a speed limit, if the person is operating the vehicle 30 miles per**  
 45 **hour or more above the posted limit and a court imposes a suspension under ORS 811.109;**

1 **or**

2 (c) **Any law establishing a speed limit, if the person is operating the vehicle at a speed**  
 3 **of 100 miles per hour or greater.**

4 (2) A violation, while operating a commercial motor vehicle, of:

5 (a) Any law establishing a speed limit, if the person is operating the vehicle 15 miles per hour  
 6 or more above the posted limit.

7 (b) The basic speed rule established in ORS 811.100 if the person is operating the vehicle 15  
 8 miles per hour or more above the speeds established in ORS 811.105 as prima facie evidence of vi-  
 9 olation of the basic speed rule.

10 (c) ORS 807.010 (1), vehicle operating without driving privileges.

11 (d) ORS 807.570, failure to carry a license or to present a license to a police officer.

12 (e) ORS 811.140, reckless driving.

13 (f) ORS 811.305, driving on the left on a curve or grade or at an intersection or rail crossing.

14 (g) ORS 811.370, failure to drive within a lane.

15 (h) ORS 811.410, unsafe passing on the left.

16 (i) ORS 811.415, unsafe passing on the right.

17 (j) ORS 811.485, following too closely.

18 (k) Any law relating to motor vehicle traffic control if the violation is connected to a fatal ac-  
 19 cident. This paragraph does not apply to violations of parking laws or laws regulating vehicle  
 20 weight or equipment.

21 (L) Any law of another jurisdiction that corresponds to an Oregon law described in this section.

22 **SECTION 8.** ORS 807.035 is amended to read:

23 807.035. This section describes the type of driving privileges granted by various endorsements  
 24 issued by this state. The following endorsements grant the driving privileges described:

25 (1) A motorcycle endorsement authorizes a person to operate any motorcycle.

26 (2) A hazardous materials endorsement authorizes a person to operate a vehicle transporting  
 27 hazardous materials.

28 (3) A tank vehicle endorsement authorizes a person to operate tank vehicles.

29 (4) A passenger endorsement authorizes a person to operate a vehicle that is designed to  
 30 transport 16 or more persons, including the driver, but that is not a school bus.

31 (5) A school bus endorsement authorizes a person to operate a school bus if the person also  
 32 holds a valid passenger endorsement.

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

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

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

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

40 (A) Controlled or operated by a farmer;

41 (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;

42 (C) Not used in the operation of a common or contract motor carrier; and

43 (D) Used within 150 miles of the farmer's farm.

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

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

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

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

7       (A) Controlled or operated by a farmer;

8       (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;

9       (C) Not used in the operation of a common or contract motor carrier; and

10       (D) Used within 150 miles of the farmer's farm.

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

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

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

16       807.370. The following are the fees relating to the issuance and renewal of licenses, driver per-  
17 mits and endorsements:

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

19       (a) For issuance, \$38.50.

20       (b) For renewal fee under ORS 807.210, \$26.50.

21       (2) Emergency driver permit fee under ORS 807.220, \$18.

22       (3) Instruction driver permit issuance fee under ORS 807.280, \$18.

23       (4)(a) License issuance fee for a Class C license, \$48.50.

24       (b) Fee to take the knowledge test for a Class C license, \$5.

25       (c) Fee to take the skills test for a Class C license, \$9.

26       (5) License issuance fee for a restricted Class C license, \$48.50.

27       (6) License issuance fee for a commercial driver license, whether or not the license contains  
28 endorsements, \$70.

29       (7) Test fees for a commercial driver license or permit:

30       (a) To take the knowledge test for a Class A commercial license or permit, \$10.

31       (b) To take the skills test for a Class A commercial license, \$70.

32       (c) To take the knowledge test for a Class B commercial license or permit, \$10.

33       (d) To take the skills test for a Class B commercial license, \$70.

34       (e) To take the knowledge test for a Class C commercial license or permit, \$10.

35       (f) To take the skills test for a Class C commercial license, \$70.

36       (8) Notwithstanding subsection (6) of this section, for issuance of a commercial driver license  
37 of any class when the Department of Transportation accepts a certificate of competency issued un-  
38 der ORS 807.080, \$40 in addition to the fee under subsection (6) of this section.

39       (9) Notwithstanding subsection (6) of this section, for original issuance of a school bus  
40 endorsement to a person who has a commercial driver license with a passenger endorsement:

41       (a) \$21; or

42       (b) \$61 if the department accepts a certificate of competency issued under ORS 807.080.

43       (10) For a farm endorsement, \$26.

44       (11) Test fees for the knowledge test for endorsements other than motorcycle and farm  
45 endorsements:

- 1 (a) For a hazardous materials endorsement, \$10.
- 2 (b) For a tank vehicle endorsement, \$10.
- 3 (c) For a passenger endorsement, \$10.
- 4 (d) For a **double and triple** trailer endorsement, \$10.
- 5 (e) For a school bus endorsement, \$10.
- 6 (12) Fee to take an airbrake knowledge test, \$10.
- 7 (13) Fee to take an airbrake skills test to remove an airbrake restriction, \$56.
- 8 (14) License renewal fee for a commercial driver license, \$50.
- 9 (15) License renewal fee for a Class C license, \$28.50.
- 10 (16) License or driver permit replacement fee under ORS 807.160, \$21.
- 11 (17) Original endorsement issuance fee under ORS 807.170 for a motorcycle endorsement, \$46,
- 12 in addition to any fees for the endorsed license.
- 13 (18) Special student driver permit fee under ORS 807.230, \$18.
- 14 (19) Student Driver Training Fund eligibility fee under ORS 807.040 and 807.150, \$6.
- 15 (20) Motorcycle Safety Subaccount fee as follows:
- 16 (a) Upon original issuance of motorcycle endorsements under ORS 807.170, \$28.
- 17 (b) Upon renewal of a license with a motorcycle endorsement under ORS 807.170, \$28.
- 18 (21) Probationary driver permit application fee under ORS 807.270, \$50.
- 19 (22) Hardship driver permit application fee under ORS 807.240, \$50.
- 20 (23) Fee for reinstatement of revoked driving privileges under ORS 809.390, \$75.
- 21 (24) Fee for reinstatement of suspended driving privileges under ORS 809.380, \$75.
- 22 (25) Fee for reinstatement of right to apply for driving privileges after a delay under ORS
- 23 809.280 (10) (1997 Edition), the same as the fee for reinstatement of suspended driving privileges.
- 24 (26) Fee for a special limited vision condition learner's permit under section 3, chapter 277,
- 25 Oregon Laws 2003, \$13.
- 26 **SECTION 10.** ORS 807.370, as amended by section 13, chapter 277, Oregon Laws 2003, section
- 27 3, chapter 59, Oregon Laws 2005, and section 11, chapter 649, Oregon Laws 2005, is amended to
- 28 read:
- 29 807.370. The following are the fees relating to the issuance and renewal of licenses, driver per-
- 30 mits and endorsements:
- 31 (1) Disability golf cart driver permit fees under ORS 807.210, as follows:
- 32 (a) For issuance, \$38.50.
- 33 (b) For renewal fee under ORS 807.210, \$26.50.
- 34 (2) Emergency driver permit fee under ORS 807.220, \$18.
- 35 (3) Instruction driver permit issuance fee under ORS 807.280, \$18.
- 36 (4)(a) License issuance fee for a Class C license, \$48.50.
- 37 (b) Fee to take the knowledge test for a Class C license, \$5.
- 38 (c) Fee to take the skills test for a Class C license, \$9.
- 39 (5) License issuance fee for a restricted Class C license, \$48.50.
- 40 (6) License issuance fee for a commercial driver license, whether or not the license contains
- 41 endorsements, \$70.
- 42 (7) Test fees for a commercial driver license or permit:
- 43 (a) To take the knowledge test for a Class A commercial license or permit, \$10.
- 44 (b) To take the skills test for a Class A commercial license, \$70.
- 45 (c) To take the knowledge test for a Class B commercial license or permit, \$10.

- 1 (d) To take the skills test for a Class B commercial license, \$70.
- 2 (e) To take the knowledge test for a Class C commercial license or permit, \$10.
- 3 (f) To take the skills test for a Class C commercial license, \$70.
- 4 (8) Notwithstanding subsection (6) of this section, for issuance of a commercial driver license
- 5 of any class when the Department of Transportation accepts a certificate of competency issued un-
- 6 der ORS 807.080, \$40 in addition to the fee under subsection (6) of this section.
- 7 (9) Notwithstanding subsection (6) of this section, for original issuance of a school bus
- 8 endorsement to a person who has a commercial driver license with a passenger endorsement:
- 9 (a) \$21; or
- 10 (b) \$61 if the department accepts a certificate of competency issued under ORS 807.080.
- 11 (10) For a farm endorsement, \$26.
- 12 (11) Test fees for the knowledge test for endorsements other than motorcycle and farm
- 13 endorsements:
- 14 (a) For a hazardous materials endorsement, \$10.
- 15 (b) For a tank vehicle endorsement, \$10.
- 16 (c) For a passenger endorsement, \$10.
- 17 (d) For a **double and triple** trailer endorsement, \$10.
- 18 (e) For a school bus endorsement, \$10.
- 19 (12) Fee to take an airbrake knowledge test, \$10.
- 20 (13) Fee to take an airbrake skills test to remove an airbrake restriction, \$56.
- 21 (14) License renewal fee for a commercial driver license, \$50.
- 22 (15) License renewal fee for a Class C license, \$28.50.
- 23 (16) License or driver permit replacement fee under ORS 807.160, \$21.
- 24 (17) Original endorsement issuance fee under ORS 807.170 for a motorcycle endorsement, \$46,
- 25 in addition to any fees for the endorsed license.
- 26 (18) Special student driver permit fee under ORS 807.230, \$18.
- 27 (19) Student Driver Training Fund eligibility fee under ORS 807.040 and 807.150, \$6.
- 28 (20) Motorcycle Safety Subaccount fee as follows:
- 29 (a) Upon original issuance of motorcycle endorsements under ORS 807.170, \$28.
- 30 (b) Upon renewal of a license with a motorcycle endorsement under ORS 807.170, \$28.
- 31 (21) Probationary driver permit application fee under ORS 807.270, \$50.
- 32 (22) Hardship driver permit application fee under ORS 807.240, \$50.
- 33 (23) Fee for reinstatement of revoked driving privileges under ORS 809.390, \$75.
- 34 (24) Fee for reinstatement of suspended driving privileges under ORS 809.380, \$75.
- 35 (25) Fee for reinstatement of right to apply for driving privileges after a delay under ORS
- 36 809.280 (10) (1997 Edition), the same as the fee for reinstatement of suspended driving privileges.

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

38 813.215. A defendant is eligible for diversion if **the defendant meets all of the following**

39 **conditions:**

40 (1) The defendant had no charge of an offense of driving while under the influence of intoxicants

41 or its statutory counterpart in any jurisdiction, other than the charge for the present offense,

42 pending on the date the defendant filed the petition for a driving while under the influence of

43 intoxicants diversion agreement[;].

44 (2) The defendant has not been convicted of an offense described in subsection (1) of this section

45 within the period beginning 10 years before the date of the commission of the present offense and

1 ending on the date the defendant filed the petition for a driving while under the influence of  
 2 intoxicants diversion agreement[;].

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

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

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

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

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

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

25 (9) The present driving while under the influence of intoxicants offense did not involve an ac-  
 26 cident resulting in:

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

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

29 **SECTION 12.** ORS 153.090 is amended to read:

30 153.090. (1) Judgments entered under this chapter may include:

31 (a) Imposition of a sentence to pay a fine;

32 (b) Costs, assessments and restitution authorized by law;

33 (c) A requirement that the fine, costs, assessments and restitution, if any, be paid out of any  
 34 base fine;

35 (d) Remission of any balance of a base fine to the defendant or to any other person designated  
 36 by the defendant; and

37 (e) Any other provision authorized by law.

38 (2) Notwithstanding ORS 137.106, if the court orders restitution in a default judgment entered  
 39 under ORS 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions  
 40 imposed, including restitution, and request a hearing to determine whether the defendant is unable  
 41 to pay or to establish a payment schedule by filing a written request with the court within one year  
 42 after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability  
 43 to pay upon receipt of the request and shall give notice to the district attorney. The district attor-  
 44 ney shall give notice to the victim of the date, time and place of the hearing. The court may deter-  
 45 mine a payment schedule for monetary sanctions imposed, including restitution ordered under this

1 subsection, if the defendant establishes at the hearing that the defendant is unable to pay the or-  
 2 dered restitution in full.

3 (3) If a trial is held in a violation proceeding, or a default judgment is entered against the de-  
 4 fendant under ORS 153.102, the court may impose any fine within the statutory limits for the vio-  
 5 lation. If a defendant pleads no contest under ORS 153.061 (2)(b), or pleads guilty under ORS 153.061  
 6 (2)(c), and the court accepts the plea and enters judgment against the defendant, the amount of the  
 7 fine imposed against the defendant by the court may not exceed the amount of the base fine estab-  
 8 lished for the violation under ORS 153.125 to 153.145.

9 (4) A judge may suspend operation of any part of a judgment entered under this chapter upon  
 10 condition that the defendant pay the nonsuspended portion of a fine within a specified period of  
 11 time. If the defendant fails to pay the nonsuspended portion of the fine within the specified period  
 12 of time, the suspended portion of the judgment becomes operative without further proceedings by the  
 13 court and the suspended portion of the fine becomes immediately due and payable.

14 (5) The court may not recommend a suspension of the defendant's driving privileges unless a  
 15 trial has been required. The failure of the defendant to appear at the trial does not prevent the  
 16 court from recommending suspension of the defendant's driving privileges.

17 (6) Entry of a default judgment under ORS 153.102 does not preclude the arrest and prosecution  
 18 of the defendant for the crime of failure to appear in a violation proceeding under ORS 153.992.

19 (7) If a person holds a commercial driver license, a court may not defer entry of a judgment or  
 20 allow an individual to enter into a diversion program that would prevent a conviction for a traffic  
 21 offense from appearing on the driving record of the holder. This subsection applies to all traffic of-  
 22 fenses, whether committed while driving a motor vehicle or a commercial motor vehicle, but does  
 23 not apply to parking violations. **For purposes of this subsection, a person holds a commercial**  
 24 **driver license if on the date of the commission of the offense the commercial driver license**  
 25 **is:**

- 26 (a) **Valid;**
- 27 (b) **Expired less than one year; or**
- 28 (c) **Suspended, but not canceled, revoked.**

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

30 809.404. (1) The Department of Transportation shall suspend a person's commercial driver li-  
 31 cense or right to apply for a commercial driver license if the person is disqualified from holding a  
 32 commercial driver license under this section. A person is entitled to administrative review under  
 33 ORS 809.440 of a suspension under this section.

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

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

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

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

45 (d) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties of a



1 driver and the person was driving a motor vehicle or a commercial motor vehicle at the time of the  
 2 offense.

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

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

9 (g) A record of conviction of any degree of murder, manslaughter or criminally negligent  
 10 homicide resulting from the operation of a commercial motor vehicle or assault in the first degree  
 11 resulting from the operation of a commercial motor vehicle.

12 (3) A person is disqualified from holding a commercial driver license if the person has a record  
 13 of conviction for a crime punishable as a felony that involves the manufacturing, distributing or  
 14 dispensing of a controlled substance, as defined in ORS 475.005, and in which a motor vehicle or a  
 15 commercial motor vehicle was used. Notwithstanding subsection (4) of this section, the department  
 16 may not issue or reinstate a commercial driver license for the lifetime of a person whose commercial  
 17 driver license is suspended under this subsection.

18 (4) Ten years after a person is disqualified from holding a commercial driver license under sub-  
 19 section (2) of this section, **or 10 years after receiving a lifetime suspension under ORS 809.413**  
 20 **(1), (2), (4) or (5)**, the person may apply to the department for the right to apply for a commercial  
 21 driver license or for reinstatement of the person's commercial driver license. The department may  
 22 issue or reinstate a commercial driver license to a person who meets all other requirements for the  
 23 issuance of a commercial driver license if the department, in the discretion of the department, finds  
 24 good cause shown and finds that the person voluntarily entered and successfully completed reha-  
 25 bilitation as approved by the department.

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

30 (6) For the purposes of this section:

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

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

36