

Senate Bill 227

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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**.

Reduces blood alcohol content that constitutes being under influence of intoxicants to 0.05 percent for persons who, in immediately preceding 15 years, have participated in diversion program or have been convicted of driving while under influence of intoxicants.

Requires health care provider providing medical care after motor vehicle accident to report blood alcohol content that meets or exceeds any discernible amount.

A BILL FOR AN ACT

1
2 Relating to blood alcohol content; creating new provisions; and amending ORS 676.260, 802.200,
3 811.182, 813.010, 813.130, 813.300 and 813.410.

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

5 **SECTION 1.** ORS 813.010 is amended to read:

6 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if
7 the person drives a vehicle while the person:

8 (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by
9 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

10 **(b) Has 0.05 percent or more by weight of alcohol in the blood of the person as shown by**
11 **chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or**
12 **813.150 and, in the 15 years before the date of the commission of the current offense, the**
13 **person:**

14 **(A) Participated in or was ordered to participate in a driving while under the influence**
15 **of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in**
16 **this state or in another jurisdiction as the result of having been arrested, cited or charged**
17 **with driving while under the influence of intoxicants under this section or its statutory**
18 **counterpart in another jurisdiction; or**

19 **(B) Was convicted of driving while under the influence of intoxicants under this section**
20 **or its statutory counterpart in another jurisdiction;**

21 [(b)] (c) Is under the influence of intoxicating liquor, a controlled substance or an inhalant; or

22 [(c)] (d) Is under the influence of any combination of intoxicating liquor, an inhalant and a
23 controlled substance.

24 (2) A person may not be convicted of driving while under the influence of intoxicants on the
25 basis of being under the influence of a controlled substance or an inhalant unless the fact that the
26 person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory
27 instrument and is either proved at trial or is admitted by the person through a guilty plea.

28 (3) A person convicted of the offense described in this section is subject to ORS 813.020 in ad-

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 dition to this section.

2 (4) Except as provided in subsection (5) of this section, the offense described in this section,
3 driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon
4 any premises open to the public.

5 (5) Driving while under the influence of intoxicants is a Class C felony if the defendant has been
6 convicted of driving while under the influence of intoxicants in violation of this section or its stat-
7 utory counterpart in another jurisdiction at least three times in the 10 years prior to the date of the
8 current offense and the current offense was committed in a motor vehicle. For purposes of this
9 subsection, a prior conviction for boating while under the influence of intoxicants in violation of
10 ORS 830.325 or its statutory counterpart in another jurisdiction, or for prohibited operation of an
11 aircraft in violation of ORS 837.080 (1)(a) or its statutory counterpart in another jurisdiction, shall
12 be considered a prior conviction of driving while under the influence of intoxicants.

13 (6) In addition to any other sentence that may be imposed, the court shall impose a fine on a
14 person convicted of driving while under the influence of intoxicants as follows:

15 (a) For a person's first conviction, a minimum of \$1,000.

16 (b) For a person's second conviction, a minimum of \$1,500.

17 (c) For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not sen-
18 tenced to a term of imprisonment.

19 (7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on a
20 person convicted of driving while under the influence of intoxicants if:

21 (a) The current offense was committed in a motor vehicle; and

22 (b) There was a passenger in the motor vehicle who was under 18 years of age and was at least
23 three years younger than the person driving the motor vehicle.

24 **SECTION 2.** ORS 811.182 is amended to read:

25 811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the
26 person violates ORS 811.175 and the suspension or revocation is one described in this section, or if
27 the hardship or probationary permit violated is based upon a suspension or revocation described in
28 subsection (3) or (4) of this section.

29 (2) Affirmative defenses to the offense described in this section are established under ORS
30 811.180.

31 (3) The *[crime]* **offense described in this section, criminal driving while suspended or re-**
32 **voked,** is a Class B felony if the suspension or revocation resulted from any degree of murder,
33 manslaughter, criminally negligent homicide or assault resulting from the operation of a motor ve-
34 hicle or if the revocation resulted from a conviction for felony driving while under the influence of
35 intoxicants.

36 (4) The *[crime]* **offense described in this section, criminal driving while suspended or re-**
37 **voked,** is a Class A misdemeanor if the suspension or revocation is any of the following:

38 (a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree
39 of recklessly endangering another person, menacing or criminal mischief, resulting from the opera-
40 tion of a motor vehicle.

41 (b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit
42 to the Department of Transportation.

43 (c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS
44 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content
45 of:

1 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

2 (B) **0.05 percent or more by weight if, in the 15 years before the date of the commission**
 3 **of the current offense of driving while under the influence of intoxicants, the person:**

4 (i) **Participated in or was ordered to participate in a driving while under the influence**
 5 **of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in**
 6 **this state or in another jurisdiction as the result of having been arrested, cited or charged**
 7 **with driving while under the influence of intoxicants under ORS 813.010 or its statutory**
 8 **counterpart in another jurisdiction; or**

9 (ii) **Was convicted of driving while under the influence of intoxicants under ORS 813.010**
 10 **or its statutory counterpart in another jurisdiction;**

11 [(B)] (C) 0.04 percent or more by weight if the person was driving a commercial motor vehicle;
 12 or

13 [(C)] (D) Any amount if the person was under 21 years of age.

14 (d) A suspension of a commercial driver license under ORS 809.413 (1) resulting from failure to
 15 perform the duties of a driver under ORS 811.700 while driving a commercial motor vehicle.

16 (e) A suspension of a commercial driver license under ORS 809.413 (12) where the person's
 17 commercial driving privileges have been suspended or revoked by the other jurisdiction for failure
 18 of or refusal to take a chemical test to determine the alcoholic content of the person's blood under
 19 a statute that is substantially similar to ORS 813.100.

20 (f) A suspension of a commercial driver license under ORS 809.404.

21 (g) A revocation resulting from habitual offender status under ORS 809.640.

22 (h) A suspension resulting from any [*crime*] **offense** punishable as a felony with proof of a ma-
 23 terial element involving the operation of a motor vehicle, other than [*a crime*] **an offense** described
 24 in subsection (3) of this section.

25 (i) A suspension for failure to perform the duties of a driver under ORS 811.705.

26 (j) A suspension for reckless driving under ORS 811.140.

27 (k) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

28 (L) A suspension or revocation resulting from misdemeanor driving while under the influence
 29 of intoxicants under ORS 813.010.

30 (m) A suspension for use of a commercial motor vehicle in the commission of a crime punishable
 31 as a felony.

32 (5) In addition to any other sentence that may be imposed, if a person is convicted of the offense
 33 described in this section and the underlying suspension resulted from driving while under the influ-
 34 ence of intoxicants, the court shall impose a fine of at least \$1,000 if it is the person's first con-
 35 viction for criminal driving while suspended or revoked and at least \$2,000 if it is the person's
 36 second or subsequent conviction.

37 (6) The Oregon Criminal Justice Commission shall classify a violation of this section that is a
 38 felony as crime category 6 of the rules of the Oregon Criminal Justice Commission.

39 **SECTION 3.** ORS 813.130 is amended to read:

40 813.130. This section establishes the requirements for information about rights and consequences
 41 for purposes of ORS 813.100 and 813.410. The following apply to the information about rights and
 42 consequences:

43 (1) The information about rights and consequences shall be substantially in the form prepared
 44 by the Department of Transportation. The department may establish any form it determines appro-
 45 priate and convenient.

(2) The information about rights and consequences shall be substantially as follows:

(a) Driving **while** under the influence of intoxicants is a crime in Oregon, and the person is subject to criminal penalties if a test under ORS 813.100 shows that the person is under the influence of intoxicants. If the person refuses a test or fails, evidence of the refusal or failure may also be offered against the person.

(b) The person will fail a test under ORS 813.100 for purposes of criminal penalties if the test discloses a blood alcohol content of:

(A) 0.08 percent or more by weight[.]; **or**

(B) 0.05 percent or more by weight if, in the 15 years before the date of the commission of the current offense of driving while under the influence of intoxicants, the person:

(i) Participated in or was ordered to participate in a driving while under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in this state or in another jurisdiction as the result of having been arrested, cited or charged with driving while under the influence of intoxicants under ORS 813.010 or its statutory counterpart in another jurisdiction; or

(ii) Was convicted of driving while under the influence of intoxicants under ORS 813.010 or its statutory counterpart in another jurisdiction.

(c) The person will fail a test for purposes of the Motorist Implied Consent Law if the test discloses a blood alcohol content of:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.05 percent or more by weight if, in the 15 years before the date of the commission of the current offense of driving while under the influence of intoxicants, the person:

(i) Participated in or was ordered to participate in a driving while under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in this state or in another jurisdiction as the result of having been arrested, cited or charged with driving while under the influence of intoxicants under ORS 813.010 or its statutory counterpart in another jurisdiction; or

(ii) Was convicted of driving while under the influence of intoxicants under ORS 813.010 or its statutory counterpart in another jurisdiction;

[(B)] (C) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

[(C)] (D) Any amount if the person was under 21 years of age.

[(c)] (d) If the person refuses or fails a test under ORS 813.100, the person's driving privileges will be suspended. The outcome of a criminal charge for driving **while** under the influence of intoxicants will not affect the suspension. The suspension will be substantially longer if the person refuses a test.

[(d)] (e) If the person refuses a test or fails a breath test under ORS 813.100 and has an Oregon driver license or permit, the license or permit will be taken immediately and, unless the person does not currently have full valid driving privileges, a temporary driving permit will be issued to the person.

[(e)] (f) If the person refuses a test under ORS 813.100, the person will not be eligible for a hardship permit for at least 90 days, and possibly for one year, depending on the person's driving record. The person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on the person's driving record.

[(f)] (g) If the person refuses a breath test under ORS 813.100, the person is subject to a fine

1 of at least \$500 and not more than \$1,000.

2 [(g)] (h) After taking a test under ORS 813.100, the person will have a reasonable opportunity,
3 upon request, for an additional chemical test for blood alcohol content to be performed at the per-
4 son's own expense by a qualified individual of the person's choosing.

5 [(h)] (i) The person has a right to a hearing to challenge the validity of the suspension before
6 the suspension becomes effective. The person must make a written request to the department for
7 such a hearing. If the person wins at the hearing, the person's driving privileges will not be sus-
8 pended. If the person loses at the hearing, the suspension will remain in effect during any court
9 review of the hearing.

10 [(i)] (j) The following times:

11 (A) If the person is issued a temporary driving permit under ORS 813.100, the number of hours
12 before the driving permit will be effective and the number of days the permit will be effective.

13 (B) The number of days within which a person must request a hearing under ORS 813.410.

14 (C) The number of days within which a hearing under ORS 813.410 will be held.

15 (3) If the person is driving a commercial motor vehicle, the information about rights and con-
16 sequences shall include, in addition to the provisions of subsection (2) of this section, substantially
17 the following:

18 (a) If the person refuses a test under ORS 813.100 or submits to a breath or blood test and the
19 level of alcohol in the person's blood is 0.04 percent or more by weight, the person's commercial
20 driver license or right to apply for a commercial driver license will be suspended and no hardship
21 permit authorizing the person to drive a commercial motor vehicle will be issued. The suspension
22 will be substantially longer if the person refuses a test.

23 (b) The suspension of the person's commercial driver license or right to apply for a commercial
24 driver license will be for the person's lifetime if the person refuses a test under ORS 813.100 or
25 submits to a breath or blood test and the level of alcohol in the person's blood is 0.04 percent or
26 more by weight and:

27 (A) The person previously has been convicted of failure to perform the duties of a driver;

28 (B) The person previously has been convicted of a crime punishable as a felony and the person
29 was driving a motor vehicle at the time the offense was committed;

30 (C) The person previously has been convicted of driving a commercial motor vehicle while the
31 person's commercial driver license or right to apply for a commercial driver license was suspended
32 or revoked;

33 (D) The person previously has been convicted of any degree of murder, manslaughter or
34 criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault
35 in the first degree resulting from the operation of a commercial motor vehicle;

36 (E) The person previously has been convicted of driving while under the influence of intoxicants;

37 (F) The person's commercial driver license previously has been suspended or revoked for refusal
38 to submit to, or failure of, a breath or blood test under ORS 813.100; or

39 (G) The person's right to apply for a commercial driver license previously has been suspended
40 or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting
41 from the operation of a commercial motor vehicle.

42 (4) Nothing in this section prohibits the department from providing additional information con-
43 cerning rights and consequences that the department considers convenient or appropriate.

44 **SECTION 4.** ORS 813.300 is amended to read:

45 813.300. (1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts

1 committed by a person driving a motor vehicle while under the influence of intoxicants, if the
 2 amount of alcohol in the person's blood at the time alleged is less than 0.08 percent by weight of
 3 alcohol as shown by chemical analysis of the person's breath or blood, it is indirect evidence that
 4 may be used with other evidence, if any, to determine whether or not the person was then under the
 5 influence of intoxicants.

6 (2) Not less than 0.08 percent by weight of alcohol in a person's blood constitutes being under
 7 the influence of intoxicating liquor.

8 **(3) Notwithstanding subsection (2) of this section, not less than 0.05 percent by weight**
 9 **of alcohol in a person's blood constitutes being under the influence of intoxicating liquor if,**
 10 **in the 15 years before the date of the commission of the current offense of driving while**
 11 **under the influence of intoxicants, the person:**

12 **(a) Participated in or was ordered to participate in a driving while under the influence**
 13 **of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in**
 14 **this state or in another jurisdiction as the result of having been arrested, cited or charged**
 15 **with driving while under the influence of intoxicants under ORS 813.010 or its statutory**
 16 **counterpart in another jurisdiction; or**

17 **(b) Was convicted of driving while under the influence of intoxicants under ORS 813.010**
 18 **or its statutory counterpart in another jurisdiction.**

19 [(3)] (4) Notwithstanding [subsection (2)] **subsections (2) and (3)** of this section, for purposes
 20 of the Motorist Implied Consent Law as defined in ORS 801.010, for a person who is under 21 years
 21 of age, any amount of alcohol in the blood constitutes being under the influence of intoxicating li-
 22 quor.

23 [(4)] (5) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per [one
 24 hundred] **100** cubic centimeters of blood.

25 **SECTION 5.** ORS 813.410 is amended to read:

26 813.410. (1) If the Department of Transportation receives from a police officer a report that is
 27 in substantial compliance with ORS 813.120, the department shall suspend the driving privileges of
 28 the person in this state on the 30th day after the date of arrest or, if the report indicates that the
 29 person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described
 30 under this section, the department determines that the suspension would not be valid as described
 31 in this section. A suspension of driving privileges imposed under this subsection shall be for a period
 32 of time established under ORS 813.420.

33 (2) If the department receives from a police officer a report pursuant to ORS 813.120 that dis-
 34 closes that the person holds a commercial driver license and that the person was driving a motor
 35 vehicle or commercial motor vehicle and refused to submit to a test under ORS 813.100 or that the
 36 person was driving a commercial motor vehicle and submitted to a breath or blood test and the
 37 person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol, the department
 38 shall suspend the person's commercial driver license on the 30th day after the date of arrest or, if
 39 the report indicates that the person failed a blood test, on the 60th day after receipt of the report,
 40 unless, at a hearing described under this section, the department determines that the suspension
 41 would not be valid as described in this section. A commercial driver license suspension imposed
 42 under this subsection shall be for a period of time established under ORS 813.404.

43 (3) If within 10 days from the date of arrest, or, if the person fails a blood test, within 10 days
 44 from the date the department sends notice of suspension, the department receives a written request
 45 for a hearing from a person whose driving privileges or commercial driver license the department

1 proposes to suspend under this section, the department shall provide a hearing in accordance with
2 this section. Except as otherwise provided under this section, a hearing held by the department
3 under this section shall be subject to the provisions for contested cases, other than appeal pro-
4 visions, under ORS chapter 183. The applicable appeal provisions are as provided under ORS 813.450
5 and section 24, chapter 672, Oregon Laws 1985. Notwithstanding ORS 809.430, the department is not
6 required to give any notice of intent to suspend or suspension in addition to that provided under
7 ORS 813.100.

8 (4) A hearing required by this section is subject to all of the following:

9 (a) The hearing shall be before an administrative law judge assigned from the Office of Admin-
10 istrative Hearings established under ORS 183.605.

11 (b) Unless there is an agreement between the person and the department that the hearing be
12 conducted elsewhere, the hearing shall be held either in the county where the alleged offense oc-
13 curred or at any place within 100 miles of the place where the offense is alleged to have occurred,
14 as established by the department by rule.

15 (c) The department may authorize the administrative law judge to issue a final order in any
16 case.

17 (d) A person who requests a hearing under this section and who fails, without just cause, to
18 appear in person or through an attorney waives the right to a hearing notwithstanding the pro-
19 visions of ORS 183.415. If a person waives a right to a hearing under this paragraph, the department
20 is not required to make any showing at hearing.

21 (e) Except as provided in ORS 813.440 or upon remand under ORS 813.450, the department shall
22 hold the hearing and issue a final order within 30 days of the date of the arrest or, if the person fails
23 a blood test, within 60 days from the date the department received the report of the failure.

24 (f) In connection with the hearing, the department or its authorized representative may admin-
25 ister oaths and shall issue subpoenas for the attendance of witnesses at the hearing requested by
26 the person or the department and the production of relevant documents.

27 (g) The hearing shall be recorded by whatever means may be determined by the department and
28 shall include testimony and exhibits, if any. The record of the proceedings shall not be transcribed
29 unless requested by a party to the proceeding.

30 (5) This subsection shall be narrowly construed so as to effect the legislative purpose of limiting
31 the scope of hearings under this section. The scope of a hearing under this section shall be limited
32 to whether the suspension is valid as described in this subsection. A suspension under this section
33 is valid if all of the following requirements have been met:

34 (a) The person, at the time the person was requested to submit to a test under ORS 813.100,
35 was under arrest for driving while under the influence of intoxicants in violation of ORS 813.010 or
36 a municipal ordinance.

37 (b) The police had reasonable grounds to believe, at the time the request was made, that the
38 person arrested had been driving **while** under the influence of intoxicants in violation of ORS
39 813.010 or of a municipal ordinance.

40 (c) The person refused a test under ORS 813.100, or took a breath or blood test and the test
41 disclosed that the level of alcohol in the person's blood at the time of the test was:

42 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

43 **(B) 0.05 percent or more by weight if, in the 15 years before the date of the commission**
44 **of the current offense of driving while under the influence of intoxicants, the person:**

45 **(i) Participated in or was ordered to participate in a driving while under the influence**

1 **of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in**
 2 **this state or in another jurisdiction as the result of having been arrested, cited or charged**
 3 **with driving while under the influence of intoxicants under ORS 813.010 or its statutory**
 4 **counterpart in another jurisdiction; or**

5 **(ii) Was convicted of driving while under the influence of intoxicants under ORS 813.010**
 6 **or its statutory counterpart in another jurisdiction;**

7 [(B)] (C) 0.04 percent or more by weight if the person was driving a commercial motor vehicle;
 8 or

9 [(C)] (D) Any amount if the person was under 21 years of age.

10 (d) If the report under ORS 813.120 indicates that the person was driving a commercial motor
 11 vehicle, the vehicle was in fact a commercial motor vehicle as defined in ORS 801.208.

12 (e) The person had been informed under ORS 813.100 of rights and consequences as described
 13 under ORS 813.130.

14 (f) The person was given written notice required under ORS 813.100.

15 (g) If the person arrested submitted to a test under ORS 813.100, the person administering the
 16 test was qualified to administer the test under ORS 813.160.

17 (h) If the person arrested submitted to a test under ORS 813.100, the methods, procedures and
 18 equipment used in the test complied with requirements under ORS 813.160.

19 (6) A suspension imposed under this section shall remain in effect pending any appeal or remand
 20 of a final order issued under this section and there shall be no stay of the suspension pending appeal
 21 or remand.

22 (7) Unless a person fails, without just cause, to appear in person or through an attorney at a
 23 hearing requested under this section, a person shall have the right to appeal any final order by the
 24 department after a hearing under this section by filing a petition. The following apply to this sub-
 25 section:

26 (a) The person shall file the petition in the circuit court for the county where the person resides
 27 or, if the person does not reside in Oregon, in the circuit court of the county in which the arrest
 28 took place within 30 days after issuance of the final order of the department.

29 (b) The court upon receipt of the petition shall set the matter for hearing upon 10 days' notice
 30 to the department and the petitioner unless hearing is waived by both the department and the
 31 petitioner.

32 **SECTION 6.** ORS 676.260 is amended to read:

33 676.260. (1) If a health care provider who is providing medical care in a health care facility
 34 immediately after a motor vehicle accident to a person reasonably believed to be the operator of a
 35 motor vehicle involved in the accident, becomes aware, as a result of any blood test performed in
 36 the course of that treatment, that the person's blood alcohol level meets or exceeds [*the percent*
 37 *specified in ORS 813.010*] **any discernible amount**, the health care provider must notify, within five
 38 calendar days, any law enforcement officer or agency.

39 (2) The notice shall consist of the name of the person being treated, the blood alcohol level
 40 disclosed by the test and the date and time of the administration of the test.

41 (3) Nothing contained in ORS 40.225 to 40.295 affects the requirement to provide notice imposed
 42 by this section, and the health care provider shall not be considered to have breached any duty
 43 under ORS 40.225 to 40.295 owed to the person about whom the notice is made.

44 **SECTION 7. The amendments to ORS 676.260, 811.182, 813.010, 813.130, 813.300 and 813.410**
 45 **by sections 1 to 6 of this 2007 Act apply to persons whose blood alcohol content is measured**

1 **on or after the effective date of this 2007 Act.**

2 **SECTION 8.** ORS 802.200 is amended to read:

3 802.200. In addition to any other records the Department of Transportation may establish, the
4 department is subject to the following provisions concerning records:

5 (1) The department shall maintain records concerning the titling of vehicles in this state. The
6 records under this subsection shall include the following:

7 (a) For vehicles issued a title by this state, the records shall identify the vehicle and contain
8 the following:

9 (A) The name of the vehicle owner and any security interest holders in order of priority, except
10 that a security interest holder need not be identified if the debtor who granted the interest is in the
11 business of selling vehicles and the vehicles constitute inventory held for sale;

12 (B) The name of any lessor of the vehicle;

13 (C) The vehicle description; and

14 (D) Whether a certificate of title was issued for the vehicle.

15 (b) If the vehicle is an antique vehicle that is reconstructed, the records shall indicate that the
16 vehicle is reconstructed.

17 (c) If the vehicle is a replica, the records shall indicate that the vehicle is a replica.

18 (d) Any other information concerning the titling of vehicles that the department considers con-
19 venient or appropriate.

20 (e) All odometer readings for a vehicle that are reported to the department under provisions of
21 the vehicle code.

22 (f) If the vehicle has been reported to the department as a totaled vehicle under the provisions
23 of ORS 819.012 or 819.014, the records shall indicate that the vehicle is a totaled vehicle unless the
24 reason for the report was theft and the vehicle has been recovered.

25 (2) If a vehicle that has been registered or titled in another jurisdiction is registered or titled
26 in this state, the department shall retain a record of any odometer readings shown on the title or
27 registration documents submitted to the department at the time of registration or title.

28 (3) Except as otherwise provided in ORS 826.003, the department shall maintain records con-
29 cerning the registration of vehicles required to be registered by the department. The records con-
30 cerning the registration of vehicles may be stored along with records concerning the titling of
31 vehicles. The records under this subsection shall include the following:

32 (a) For vehicles registered by the department, the records shall identify the vehicle and contain
33 the following:

34 (A) The registration plate number assigned by the department to the vehicle;

35 (B) The name of the vehicle owner;

36 (C) The vehicle description and vehicle identification number; and

37 (D) An indication that the vehicle is a totaled vehicle if it has been reported to the department
38 as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report
39 was theft and the vehicle has been recovered.

40 (b) Any other information concerning the registration of vehicles that the department considers
41 convenient or appropriate.

42 (4) The department shall maintain separate records for the regulation of vehicle dealers. The
43 records required under this subsection shall include the following information about persons issued
44 dealer certificates:

45 (a) The person's application for a vehicle dealer certificate.

1 (b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.

2 (c) A numerical index according to the distinctive number assigned to each vehicle dealer.

3 (5) The department shall maintain a file on vehicles for which the title record is canceled under
4 ORS 819.030. The records required under this subsection shall disclose the last registered owner of
5 each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the
6 canceled title record for each vehicle and the make and year model for each vehicle.

7 (6) The department shall maintain a record of each agreement or declaration under ORS 802.500
8 and 802.520.

9 (7) The department shall maintain separate and comprehensive records of all transactions af-
10 fecting the Revolving Account for Emergency Cash Advances described under ORS 802.100.

11 (8) The department shall maintain suitable records of driver licenses and driver permits. The
12 records required under this subsection shall include all of the following:

13 (a) An index by name and number.

14 (b) Supporting documentation of all licenses or driver permits issued.

15 (c) Every application for a driver license or driver permit.

16 (d) All licenses or driver permits that have been suspended or revoked.

17 (e) For each commercial driver license, the Social Security number of the person to whom the
18 license is issued, or any other number or identifying information that the Secretary of the United
19 States Department of Transportation determines appropriate to identify the person.

20 (9) The department shall maintain a two-part driving record consisting of an employment driving
21 record and a nonemployment driving record for each person as required under this subsection. All
22 of the following apply to the records required under this subsection:

23 (a) The department shall maintain driving records on:

24 (A) Every person who is granted driving privileges under a driver license, driver permit or a
25 statutory grant of driving privileges under ORS 807.020;

26 (B) Every person whose driving privileges have been suspended, revoked or canceled under this
27 vehicle code;

28 (C) Every person who has filed an accident report under ORS 811.725 or 811.730; and

29 (D) Every person who is required to provide future responsibility filings under ORS 806.200,
30 806.220, 806.230 or 806.240.

31 (b) In addition to other information required by this paragraph, the employment driving record
32 shall include all reports of drug test results that are made to the department under ORS 825.410.
33 Notwithstanding any other provision of law, release of the portion of the employment driving record
34 that shows drug test results reported under ORS 825.410 is permitted only in accordance with ORS
35 802.202. The employment driving record shall also include all motor vehicle accidents that the per-
36 son is required to report under ORS 811.720, all suspensions of driving privileges required to be
37 placed on the record under ORS 809.280, all suspensions of the person's commercial driver license
38 that result from operation or use of a commercial motor vehicle and all convictions of the person
39 for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation
40 or suspension of driving privileges under ORS 809.409, 809.411, 809.413 and 813.400, but shall include
41 only such accidents, suspensions and convictions that occur while the person is driving a motor
42 vehicle:

43 (A) In the course of the person's employment when the person is employed by another for the
44 principal purpose of driving a motor vehicle;

45 (B) Carrying persons or property for compensation;

1 (C) In the course of the person's employment in the collection, transportation or delivery of mail
2 if the vehicle is government owned or marked for the collection, transportation or delivery of mail
3 in accordance with government rules;

4 (D) That is an authorized emergency vehicle;

5 (E) That is a commercial motor vehicle; or

6 (F) In the course of the person's employment with a federal, state or local government in a
7 public works project involving repair or maintenance of water, sewer or road systems.

8 (c) The nonemployment driving record shall include the person's:

9 (A) Motor vehicle accidents that the person is required to report under ORS 811.720, other than
10 the motor vehicle accidents that are included on the person's employment driving record;

11 (B) Suspensions, cancellations and revocations of licenses, permits and driving privileges;

12 (C) Convictions for violation of the motor vehicle laws other than those included in the em-
13 ployment driving record including, for each violation of ORS 811.100 or 811.111, the speed at which
14 the person was convicted of traveling and the posted speed, the speed limit or the speed that con-
15 stitutes prima facie evidence of violation of the basic speed rule, as appropriate; and

16 (D) Diversion agreements entered into under ORS 813.220 within the preceding [10] 15 years.

17 (d) The department may record other entries to indicate correspondence, interviews, partic-
18 ipation in driver improvement programs or other matters concerning the status of the driving priv-
19 ileges of the person.

20 (e) When a person from another jurisdiction applies for a driver license or permit issued by this
21 state, the department shall request a copy of the person's driving record from the other jurisdiction.
22 At the time the person is issued a license in Oregon, the record from the other jurisdiction shall
23 become part of the driver's record in this state with the same force and effect as though entered
24 on the driver's record in this state in the original instance. The department by rule may specify
25 methods for converting entries from out-of-state records for use in Oregon.

26 (f) When a suspension of a driver permit, driver license or other driving privilege is placed on
27 the driving record under ORS 809.280 for failure to appear in court on a traffic crime, the depart-
28 ment shall note on the record that the suspension was for failure to appear in court and shall also
29 note the offense charged against the person on which the person failed to appear.

30 (g) The department, in consultation with the Department of State Police, shall devise and im-
31 plement a method of noting suspensions and revocations of driving privileges on the record in such
32 a way that police agencies can determine directly from the record what class of offense, as provided
33 by law, is committed by a person who drives in violation of the suspension or revocation. If the
34 department and the Department of State Police devise a mutually agreeable alternative method of
35 informing police agencies of the nature of a suspension or revocation and the consequences of its
36 violation, the implementation of that method shall satisfy the duty of the department under this
37 paragraph.

38 (10) The Department of Transportation shall maintain records of judgments or convictions sent
39 to the department under ORS 810.375.

40 (11) The department shall maintain accident reports filed with the department under ORS
41 810.460 and 811.725 to 811.735.

42 (12) The department shall maintain records of bank checks or money orders returned under ORS
43 802.110.

44 (13) The department shall maintain records of trip permits issued by the department under ORS
45 803.600, as provided under this subsection. The records required by this subsection shall include the

1 following:

2 (a) A description of the vehicle sufficient to identify the vehicle.

3 (b) The person to whom the permit was issued.

4 (c) When the permit was issued.

5 (d) The type of permit issued.

6 (e) For registration weight trip permits, the maximum allowable registration weight permitted
7 for operation under the permit.

8 (f) Any other information the department determines appropriate or convenient.

9 **SECTION 9. The amendments to ORS 802.200 by section 8 of this 2007 Act apply to re-**
10 **ords of diversion agreements that are established or maintained by the Department of**
11 **Transportation on or after the effective date of this 2007 Act.**

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