

House Bill 3428

Sponsored by Representative THATCHER (at the request of Craig Cox in memory of Judy Cox)

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**.

Requires driver license or identification card issued by Department of Transportation to indicate that person may not purchase alcoholic liquor if person is convicted at least two times of driving while under influence of intoxicants.

Requires licensees and permittees of Oregon Liquor Control Commission to check identification of all persons before selling or serving alcoholic liquor.

Directs commission to cancel or suspend license of licensee who knowingly sells alcoholic liquor to person prohibited from purchasing alcoholic liquor.

A BILL FOR AN ACT

1
2 Relating to alcoholic liquor; creating new provisions; and amending ORS 471.105, 471.130, 471.315,
3 807.110 and 807.400.

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

5 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of the Oregon**
6 **Vehicle Code.**

7 **SECTION 2. (1) If a person is convicted at least two times of driving while under the in-**
8 **fluence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010**
9 **in another jurisdiction, the trial judge shall order that the Department of Transportation**
10 **place an alcohol restriction on the person's driver license or identification card to indicate**
11 **that the person may not purchase alcoholic liquor.**

12 **(2) When a court orders the Department of Transportation to place an alcohol restriction**
13 **on a person's driver license or identification card, the court shall send a copy of the order**
14 **to the department.**

15 **SECTION 3. (1) Upon receiving an order of the court under section 2 of this 2009 Act, the**
16 **Department of Transportation shall cancel the person's driver license or identification card.**
17 **The person shall surrender to the department any driver license or identification card can-**
18 **celed under this subsection.**

19 **(2) The department may reissue a driver license or identification card canceled under**
20 **subsection (1) of this section when the applicant has satisfied all requirements for the driver**
21 **license or identification card.**

22 **(3) The fee for reissuance of a driver license under this section shall be the same as the**
23 **fee for replacement of a driver license under ORS 807.370.**

24 **(4) The fee for reissuance of an identification card under this section shall be the same**
25 **as the fee for replacement of an identification card under ORS 807.410.**

26 **(5) The reissued driver license or identification card must include the words "alcohol re-**
27 **striction" and the date the alcohol restriction expires.**

28 **(6) The alcohol restriction expires three years from the date of the most recent con-**

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 **viction described in section 2 of this 2009 Act.**

2 **SECTION 4.** ORS 807.110, as amended by section 13, chapter 1, Oregon Laws 2008, is amended
 3 to read:

4 807.110. (1) A license issued by the Department of Transportation shall contain all of the fol-
 5 lowing:

6 (a) The distinguishing number assigned to the person issued the license by the department.

7 (b) For the purpose of identification, a brief description of the person to whom the license is
 8 issued.

9 (c) The full legal name of the person to whom the license is issued, except that the department
 10 may limit the number of characters displayed on the license.

11 (d) The date of birth of the person to whom the license is issued.

12 (e) Except as provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250
 13 or Address Confidentiality Program participants in ORS 192.846, the residence address of the person
 14 to whom the license is issued.

15 (f) Upon request of the person to whom the license is issued, the fact that the person is an an-
 16 atomical donor.

17 (g) Upon order of the juvenile court, the fact that the person to whom the license is issued is
 18 an emancipated minor.

19 (h) Except as otherwise provided in subsection (2) of this section, a photograph described in this
 20 paragraph. A photograph required under this paragraph shall:

21 (A) Be a full-faced, color photograph of the person to whom the license is issued;

22 (B) Be of a size approved by the department; and

23 (C) Be taken at the time of application for issuance of the license whether the application is for
 24 an original license, replacement of a license under ORS 807.160 or for renewal of a license under
 25 ORS 807.150, except that the department, by rule, may allow the applicant to use a photograph al-
 26 ready on file with the department.

27 (i) The class of license issued and any endorsements granted. If the license is a commercial
 28 driver license, the words "commercial driver license" or the letters "CDL" shall appear on the li-
 29 cense.

30 (j) The signature of the person to whom the license is issued.

31 **(k) Upon order of the court, the fact that the person to whom the license is issued may**
 32 **not purchase alcoholic liquor and the date the alcohol restriction expires.**

33 (2) The department may issue a valid license without a photograph to an applicant who objects
 34 either on religious grounds or because of the applicant's facial disfigurement.

35 (3) A limited term driver license issued under section 4, chapter 1, Oregon Laws 2008, shall in-
 36 dicate:

37 (a) That it is a limited term driver license; and

38 (b) The date on which the limited term driver license expires.

39 (4) The department shall use security procedures, processes and materials in the preparation,
 40 manufacture and issuance of any license that prohibit as nearly as possible anyone's ability to alter,
 41 counterfeit, duplicate or modify the license without ready detection. The security features used in
 42 the production of the licenses shall provide for:

43 (a) The authentication of a genuine document in a reasonable time; and

44 (b) The production of the license only by equipment that requires verification of the identity of
 45 the operator of the equipment before a license may be produced.

1 **SECTION 5.** ORS 807.400, as amended by section 22, chapter 1, Oregon Laws 2008, is amended
 2 to read:

3 807.400. (1) The Department of Transportation shall issue an identification card to any person
 4 who:

5 (a) Is domiciled in or is a resident of this state, as described in ORS 807.062;

6 (b) As required by sections 2 and 4, chapter 1, Oregon Laws 2008, furnishes proof of both legal
 7 presence in the United States and a Social Security number, or, if the person is not eligible for a
 8 Social Security number, proof of legal presence in the United States and proof that the person is
 9 not eligible for a Social Security number;

10 (c) Does not have a current, valid driver license;

11 (d) Furnishes evidence of the person’s full legal name, age and identity as the department may
 12 require; and

13 (e) Submits to collection of biometric data by the department that establish the identity of the
 14 person as provided in ORS 807.024.

15 (2) The department shall work with other agencies and organizations to attempt to improve the
 16 issuance system for identification cards.

17 (3) Every original application for an identification card must be signed by the applicant. The
 18 department shall require at least one document to verify the address of an applicant for issuance
 19 of an identification card in addition to other documents the department may require of the applicant.
 20 If the address of an applicant has changed since the last time an identification card was issued to
 21 or renewed for the applicant, the department shall require proof to verify the address of the appli-
 22 cant for renewal of an identification card, in addition to anything else the department may require.

23 (4) Every identification card shall be issued upon the standard license form described under ORS
 24 807.110 and shall bear a statement to the effect that the identification card is not a license or any
 25 other grant of driving privileges to operate a motor vehicle and is to be used for identification
 26 purposes only. The department shall use the same security procedures, processes, materials and
 27 features for an identification card as are required for a license under ORS 807.110. The identification
 28 card is not required to contain the residence address of persons listed in ORS 807.110 (1)(e).

29 (5) If the identification card is a limited term identification card issued under section 4, chapter
 30 1, Oregon Laws 2008, the limited term identification card shall indicate:

31 (a) That it is a limited term identification card; and

32 (b) The date on which the limited term identification card expires.

33 (6) Upon order of the juvenile court, the department shall include on the card the fact that the
 34 person issued the identification card is an emancipated minor.

35 **(7) Upon order of the court, the department shall include on the identification card the**
 36 **fact that the person to whom the identification card is issued may not purchase alcoholic**
 37 **liquor and the date the alcohol restriction expires.**

38 [(7)] (8) Each original identification card shall expire on a date consistent with the expiration
 39 dates of licenses as set forth in ORS 807.130.

40 [(8)] (9) Identification cards shall be renewed under the terms for renewal of licenses as set forth
 41 in ORS 807.150.

42 [(9)] (10) The fee for an original identification card or a renewal thereof shall be the fee estab-
 43 lished under ORS 807.410.

44 [(10)] (11) An identification card becomes invalid if the holder of the card changes the holder’s
 45 residence address from that shown on the identification card and does not provide the department

1 with notice of the change as required under ORS 807.420.

2 [(11)] (12) If a person to whom an identification card was issued and who changes the person's
 3 residence address appears in person at a department office that issues identification cards, the de-
 4 partment may do any of the following:

5 (a) Issue a replacement identification card containing the new address upon receipt of the old
 6 identification card and payment of the fee established for issuing a replacement identification card
 7 with a changed address under ORS 807.410. Except as otherwise provided in subsection [(13)] (14)
 8 of this section, the replacement identification card shall bear the same distinguishing number as the
 9 card being replaced.

10 (b) Note the new address on the old identification card in a manner to be determined by the
 11 department by rule.

12 [(12)] (13) An identification card becomes invalid if the holder of the card changes the holder's
 13 name from that shown on the card, including a change of name by marriage, without providing the
 14 department with notice of the change as required under ORS 807.420. Upon receiving such notice
 15 and the old identification card, the department shall issue a replacement identification card upon
 16 payment of the fee required under ORS 807.410.

17 [(13)] (14) In the event that, for a reason identified by the department by rule, a person needs
 18 a replacement identification card that bears a distinguishing number different from the number on
 19 the card being replaced, the person to whom the card was issued may obtain a replacement card
 20 from the department upon furnishing proof satisfactory to the department of the need for such re-
 21 placement and payment of the replacement fee under ORS 807.410.

22 [(14)] (15) The department may establish by rule reasons for issuing replacement identification
 23 cards that are in addition to the reasons identified in subsections [(11) to (13)] (12) to (14) of this
 24 section. The fee for a replacement identification card is provided under ORS 807.410.

25 [(15)] (16) Upon cancellation of an identification card, the card is terminated and must be sur-
 26 rendered to the department. An identification card may be canceled for any of the reasons that
 27 driving privileges or a driver license may be canceled under ORS 809.310. The department may re-
 28 issue an identification card canceled under this subsection when the applicant has satisfied all re-
 29 quirements for the identification card.

30 [(16)] (17) Notwithstanding any other provision of this section, the department may issue an
 31 identification card to a person under this subsection without charge when the person surrenders the
 32 person's driver license or driver permit to the department for reasons described in this subsection.
 33 If the department issues an identification card under this subsection, the identification card shall
 34 expire at the same time as the surrendered driver license or driver permit would have expired. An
 35 identification card issued under this subsection is subject to the same requirements and fees for
 36 renewal or upon expiration as any other identification card issued under this section. The depart-
 37 ment may issue identification cards under this subsection for any of the following reasons:

38 (a) The person voluntarily surrenders the person's driver license or driver permit to the de-
 39 partment based upon the person's recognition that the person is no longer competent to drive.

40 (b) The person's driving privileges are suspended under ORS 809.419 (1). This paragraph only
 41 applies if the person voluntarily surrenders the person's driver license or driver permit to the de-
 42 partment as provided under ORS 809.500.

43 **SECTION 6.** ORS 471.105 is amended to read:

44 471.105. Before being qualified to purchase alcoholic liquor from the Oregon Liquor Control
 45 Commission, a person must be at least 21 years of age **and must have identification as required**

1 **by ORS 471.130 that does not have an alcohol restriction indicated on the identification.**

2 **SECTION 7.** ORS 471.130 is amended to read:

3 471.130. (1) All licensees and permittees of the Oregon Liquor Control Commission, before selling
4 or serving alcoholic liquor to any person [*about whom there is any reasonable doubt of the person's*
5 *having reached 21 years of age*], shall require such person to produce one of the following pieces of
6 identification:

7 (a) The person's passport.

8 (b) The person's motor vehicle operator's license, whether issued in this state or by any other
9 state, so long as the license has a picture of the person.

10 (c) An identification card issued under ORS 807.400.

11 (d) A United States military identification card.

12 (e) Any other identification card issued by a state that bears a picture of the person, the name
13 of the person, the person's date of birth and a physical description of the person.

14 (2) If a person does not have identification as described in subsection (1) of this section, the
15 permittee or licensee shall require such person to make a written statement of age and furnish ev-
16 idence of the person's true age and identity. The written statement of age shall be on a form fur-
17 nished or approved by the commission, including but not limited to the following information:

18 _____
19

20 Date _____

21 I am 21 years of age or over. _____

22 **I am permitted to purchase**
23 **alcohol.** _____

24 Signature

25 Description of evidence in support of age and identity:

26 _____ Identification No. (if any) _____

27 _____ Identification No. (if any) _____

28 (Fill in information pertaining to any two or more pieces of evidence submitted by the person.)

29 I hereby certify that I have accurately recorded identification of the evidence submitted to
30 complete this form.

31 _____

32 Signature of permittee or licensee

33 ORS 165.805 provides as follows:

34 165.805. (1) A person commits the crime of misrepresentation of age by a minor if:

35 (a) Being less than a certain, specified age, the person knowingly purports to be of any age other
36 than the person's true age with the intent of securing a right, benefit or privilege which by law is
37 denied to persons under that certain, specified age; or

38 (b) (Not applicable.)

39 (2) Misrepresentation of age by a minor is a Class C misdemeanor.

40 _____
41

42 **SECTION 8.** ORS 471.315 is amended to read:

43 471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued
44 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by
45 ORS 471.322, if it finds or has reasonable ground to believe any of the following to be true:

- 1 (a) That the licensee:
- 2 (A) Has violated any provision of this chapter or ORS 474.115 or any rule of the commission
- 3 adopted pursuant thereto.
- 4 (B) Has made any false representation or statement to the commission in order to induce or
- 5 prevent action by the commission.
- 6 (C) Is not maintaining an acceptable bond as required by ORS 471.311 or is not maintaining the
- 7 insurance or bond required by ORS 471.168.
- 8 (D) Has maintained an insanitary establishment.
- 9 (E) Is insolvent or incompetent or physically unable to carry on the management of the estab-
- 10 lishment of the licensee.
- 11 (F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to ex-
- 12 cess.
- 13 (G) Knowingly has sold alcoholic liquor to persons under 21 years of age, **to persons issued**
- 14 **an identification card or driver license indicating that the person is not allowed to purchase**
- 15 **alcohol** or to persons visibly intoxicated at the time of sale, or has knowingly allowed the con-
- 16 sumption of alcoholic liquor on the licensed premises by a person who is visibly intoxicated at the
- 17 time of consumption.
- 18 (H) Has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.
- 19 (I) Since the granting of the license, has been convicted of a felony, of violating any of the liquor
- 20 laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance
- 21 committed on the licensed premises.
- 22 (b) That any person licensed to sell at retail for consumption on the premises is acting as an
- 23 agent of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or prop-
- 24 erty, or has accepted gratuities or rebates, or has obtained the use of equipment from any man-
- 25 ufacturer or wholesaler of alcoholic liquor or any agent thereof.
- 26 (c) That there is a history of serious and persistent problems involving disturbances, lewd or
- 27 unlawful activities or noise either in the premises or involving patrons of the establishment in the
- 28 immediate vicinity of the premises if the activities in the immediate vicinity of the premises are
- 29 related to the sale or service of alcohol under the exercise of the license privilege. Behavior which
- 30 is grounds for cancellation or suspension of a license under this section, where so related to the sale
- 31 or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound
- 32 vibrations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or
- 33 related litter; trespassing on private property; and public urination. Mitigating factors include a
- 34 showing by the licensee that the problems are not serious or persistent or that the licensee has
- 35 demonstrated a willingness and ability to control adequately the licensed premises and patrons' be-
- 36 havior in the immediate vicinity of the premises which is related to the licensee's sale or service
- 37 of alcohol under the licensee's exercise of the license privilege.
- 38 (d) That there is any other reason which, in the opinion of the commission, based on public
- 39 convenience or necessity, warrants canceling or suspending such license.
- 40 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.
- 41 **SECTION 9. Sections 2 and 3 of this 2009 Act and the amendments to ORS 471.105,**
- 42 **471.130, 471.315, 807.110 and 807.400 by sections 4 to 8 of this 2009 Act apply to persons who**
- 43 **have been convicted at least two times of violating ORS 813.010 or the statutory counterpart**
- 44 **to ORS 813.010 in another jurisdiction on or after the effective date of this 2009 Act.**
- 45