

Enrolled Senate Bill 127

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Transportation)

CHAPTER

AN ACT

Relating to financial responsibility requirements for motor vehicles; amending ORS 806.020, 806.040, 806.160, 806.170, 806.190, 806.200, 806.240, 806.245, 806.270 and 806.280; and repealing ORS 806.030, 806.250 and 806.255.

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

SECTION 1. ORS 806.020 is amended to read:

806.020. This section provides exemptions from the necessity for compliance with or proof of compliance with financial responsibility requirements in accident reports under ORS 811.725, when applying for vehicle registration under ORS 803.370 or 803.460 and for operating a vehicle under ORS 806.010. The owner or operator of a vehicle is exempt, as provided by this section, from financial responsibility requirements if the vehicle involved in the accident, sought to be registered or operated is any of the following:

- (1) An antique motor vehicle issued permanent registration under ORS 805.010.
- (2) A farm trailer.
- (3) A farm tractor.
- (4) An implement of husbandry.
- (5) A motor vehicle of special interest that is maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.
- (6) A snowmobile, Class I or Class III all-terrain vehicle.
- (7) Any motor vehicle [*when the owner of the vehicle has submitted to the Department of Transportation a statement, in such form as may be required by the department, declaring that the vehicle is continuously not being operated on the highways of this state and explaining the reasons therefor. A person who falsely certifies under this subsection is subject to penalty under ORS 806.030*] **not operated on any highway or premises open to the public in this state.**
- (8) A motor assisted scooter.
- (9) An electric personal assistive mobility device.

SECTION 2. ORS 806.160 is amended to read:

806.160. (1) The Department of Transportation shall demand that a person provide the department, within 30 days after the date of the mailing of the demand, **with** satisfactory proof that the person is in compliance with the financial responsibility requirements as of the date of the letter from the department under ORS 806.150 if the department has reasonable grounds to believe that

the person was or is violating any of the following, whether or not the person has been convicted of the violation:

- (a) Driving uninsured under ORS 806.010.
- (b) Falsification of financial responsibility under ORS 806.050.

(2) If the person cannot provide the required proof within the required time, **the person is subject to penalty under ORS 806.220.**[:]

[(a) The person is subject to the requirements under ORS 806.220; and]

[(b) The department shall also notify the district attorney of the county in which the person resides of the department's belief that the person was or is committing violations of ORS 806.010 and 806.050.]

[(3) No civil liability shall accrue to the department or any of its employees for reports made to a district attorney under this section.]

SECTION 3. ORS 806.170 is amended to read:

806.170. The Department of Transportation shall investigate all certifications of compliance with financial responsibility requirements made on reports of accidents under ORS 811.725 and 811.730. The department shall contact the insurers listed on the certifications to determine whether each certification is accurate. If the certification is not correct, an insurer shall *[so]* notify the department **no later than 60 days after receiving a request from the department for verification of the accuracy of the certification.**

SECTION 4. ORS 806.190 is amended to read:

806.190. (1) Every insurance carrier *[or insurance producer]* that issues property and casualty insurance policies, as defined in ORS chapter 731, in this state shall report to the Department of Transportation any person the carrier *[or producer]* has reason to believe is involved in an accident while the person is operating a vehicle in violation of ORS 806.010. The carrier *[or producer]* shall make the report required by this section whether or not the accident:

- (a) Is a reportable accident under ORS 811.720; or
- (b) Occurred on a highway or on any other premises open to the public.

(2) An insurance carrier shall file the report no later than 60 days after the carrier first has reason to believe that a person was involved in an accident while the person was operating a vehicle in violation of ORS 806.010.

[(2)] (3) No civil liability shall accrue to [a carrier or insurance producer] an insurance carrier or any of its employees for reports made to the department under this section when the reports are made in good faith.

SECTION 5. ORS 806.200 is amended to read:

806.200. (1) A person commits the offense of failure to make a future responsibility filing after an accident if *[the person is the owner or driver of a vehicle that is in any manner involved in an accident that is required to be reported under ORS 811.720 and the person does not make a future responsibility filing within 30 days after the filing of the accident report required under ORS 811.725.]*:

- (a) The person is the owner or driver of a motor vehicle involved in an accident;**
- (b) At the time of the accident the vehicle was operated in violation of ORS 806.010;**
- (c) The person does not make a future responsibility filing within 30 days after the accident; and**

(d) The person is not exempt under ORS 806.210 from making a future responsibility filing.

[(2) Exemptions from this section are established under ORS 806.210.]

[(3)] (2) The employer of a driver is subject to the requirements and penalties under this section if the driver is an employee exempted from this section under ORS 806.210. If an employer is subject to this section, the registration of the employer's vehicles may be suspended as provided under ORS 809.050.

[(4)] (3) In addition to any other penalties under this section, violation of this section subjects the violator to suspension of driving privileges as provided under ORS 809.415.

[(5)] (4) The offense described in this section, failure to make a future responsibility filing after an accident, is a Class B traffic violation.

SECTION 6. ORS 806.240 is amended to read:

806.240. Future responsibility filings required by ORS 806.200, 806.220 or 806.230 or by any other law of this state are subject to all of the following:

(1) **Except as provided in subsection (3) of this section**, the person required to make the filing must file **with the Department of Transportation**, or have filed **with the department** for the benefit of the person, proof that meets the requirements of this section and must maintain the proof [*as long*] as required under ORS 806.245. **The filing is made on the date it is received by the department if it is received during regular business hours.**

(2) The proof [*given for a future responsibility filing must be one or more of the following proofs that the person is in compliance with financial responsibility requirements*] **filed under subsection (1) of this section must be:**

(a) A certificate or certificates of insurance that meet the requirements under ORS 806.270[.];
or

(b) A valid certificate of self-insurance issued by the department [*of Transportation*] under ORS 806.130.

(3) The owner of a motor vehicle may make a future responsibility filing under this section on behalf of the owner's employee or a member of the owner's immediate family or household in lieu of the filing being made by [*such*] **the** person. Filing under this subsection permits the person on whose behalf the filing is made to operate only a motor vehicle covered by the proof given in the filing. The department shall endorse restrictions, as appropriate, on any license or driver permit the person holds as the department determines necessary to limit the person's ability to operate vehicles consistent with this subsection.

[(4) *At the request of a person who has made a future responsibility filing under this section, the department shall return the proof filed upon the substitution of other adequate proof.*]

[(5)] (4) Whenever proof filed under this section no longer meets the requirements of this section, the department shall require the furnishing of other proof for the future responsibility filing. If [*such*] other proof is not [*so*] furnished, the department shall suspend the driving privileges of the person as provided under ORS 809.415 or, if applicable, any registration as provided under ORS 809.050.

SECTION 7. ORS 806.245 is amended to read:

806.245. A termination of the requirement to maintain a future responsibility filing does not remove a person's responsibility to comply with financial responsibility requirements. [*Except as provided in ORS 806.255,*] The Department of Transportation shall terminate requirements for a future responsibility filing when any of the following occurs:

(1) The person on whose behalf the filing was made dies.

(2) More than three years have passed from the date the filing was required.

(3) A person on whose behalf the filing was made requests termination and either:

(a) The person was required to file because of an error committed by the department; or

(b) The person was required to file because of an error committed by an insurance company in notifying the department regarding the correctness of a certification under ORS 806.150.

(4) A person who was required to file because of failure to respond to a department demand under ORS 806.160 requests termination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the department's letter of verification.

(5) A person who was required to file because of failure to prove under ORS 806.210 that the person was in compliance with financial responsibility requirements requests termination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility requirements at the time of the accident; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements at the time of the accident.

(6) A person's hardship permit expires and the filing was required only for issuance of the hardship permit under ORS 807.240.

SECTION 8. ORS 806.270 is amended to read:

806.270. (1) A certificate of insurance that is used to comply with future responsibility filing requirements under ORS 806.240 is subject to all of the following:

(a) Except as provided by ORS 806.280, the certificate must be issued by an insurance carrier doing business in this state.

(b) The certificate must show that the person required to make the future responsibility filing is covered by insurance that provides minimum coverage necessary for payment of the schedule of payments under ORS 806.070.

(c) The certificate must show that the person required to make the future responsibility filing is either:

(A) Insured by a policy meeting the requirements under ORS 806.080 that also covers all other persons who, with the consent of the insured, use the vehicles owned by the person making the filing; or

(B) Insured against loss arising from liabilities imposed by law for damages arising out of the ownership, operation, use or maintenance of motor vehicles not owned by the person required to make the filing.

(d) The certificate must:

[*(A) Be dated as of the date of the motor vehicle policy for which it is given;*]

(A) Include the effective date of the certification;

(B) Contain the policy number; and

(C) Describe all vehicles covered by the policy unless the policy is issued with respect to all vehicles operated by the insured.

(e) The certificate must provide that the insurers will give the Department of Transportation notice of any cancellation of the policy within 10 days after the effective date of the cancellation or termination. The notice requirement under this paragraph does not apply where the insurance is terminated under ORS 806.290.

(2) The certificate or certificates must cover all vehicles that are registered in the name of or operated by the person, except vehicles that are in storage and for which the current registration plates and cards have been surrendered to the department.

(3) Unless [*and until*] the department has reason to believe otherwise, the department may presume that **the certificate covers** all vehicles [*that are required by*] **described in** subsection (2) of this section [*to be covered by the certificate are covered*].

(4) The requirements under this section may be fulfilled by the policies of one or more insurance carriers.

SECTION 9. ORS 806.280 is amended to read:

806.280. The Department of Transportation [*shall*] **may** not accept a certificate of insurance for purposes of future responsibility filings from an [*insurance company*] **insurer** that is not authorized to do business in Oregon unless the **insurer is an eligible surplus lines insurer as defined in ORS 735.405 or a risk retention group as defined in ORS 735.305.** [*company meets all of the following requirements:*]

[*(1) The company must execute and deliver to the department a power of attorney authorizing the department to accept on behalf of the company service of process in any action arising out of a vehicle accident in this state involving the principal or insured of the company.*]

[*(2) The company must execute and deliver to the department a written agreement that the policy shall be deemed to conform to the laws of this state relating to such insurance policy.*]

[3] *The company must not be in default in any of its agreements or undertakings under a certificate of insurance used for a future responsibility filing in this state. The department shall not accept any certificate of insurance from a company described in this subsection so long as such default continues.*]

SECTION 10. ORS 806.040 is amended to read:

806.040. Financial responsibility requirements are designed to provide for minimum payment of judgments of the type described in this section. [When] **For the purposes of ORS 806.130, 806.140, [806.255,] 809.020, 809.130 [or] and 809.470, [refer to] judgments of the type described in this section[, the reference is to a judgment that meets all of the following requirements] must:**

(1) [It must] Have become final by expiration, without appeal, of the time within which an appeal might have been perfected or by final affirmation on appeal[.];

(2) [It must] Be rendered by a court of competent jurisdiction of any state or of the United States[.];

(3) [It must] Be upon a cause of action for damages of the type described under subsection (4) of this section or upon a cause of action on an agreement of settlement for such damages[.]; **and**

(4) [It must] Be for one or more of the following kinds of damage arising out of a motor vehicle accident on public or private property:

(a) Damages, including damages for care and loss of services, because of bodily injury to or death of any person.

(b) Damages because of injury to or destruction of property, including the loss of use thereof.

SECTION 11. ORS 806.030, 806.250 and 806.255 are repealed.

Passed by Senate March 20, 2009

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Secretary of Senate

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President of Senate

Passed by House May 26, 2009

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Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State