

Senate Bill 127

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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**.

Revises financial responsibility provisions.
Eliminates mandatory one-year suspension of driving privileges for person involved in uninsured motor vehicle accident.

A BILL FOR AN ACT

1
2 Relating to financial responsibility requirements for motor vehicles; amending ORS 806.010, 806.020,
3 806.040, 806.160, 806.170, 806.190, 806.200, 806.240, 806.245, 806.270, 806.280, 809.417 and 809.450;
4 and repealing ORS 806.030, 806.250 and 806.255.

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

6 **SECTION 1.** ORS 806.020 is amended to read:

7 806.020. This section provides exemptions from the necessity for compliance with or proof of
8 compliance with financial responsibility requirements in accident reports under ORS 811.725, when
9 applying for vehicle registration under ORS 803.370 or 803.460 and for operating a vehicle under
10 ORS 806.010. The owner or operator of a vehicle is exempt, as provided by this section, from finan-
11 cial responsibility requirements if the vehicle involved in the accident, sought to be registered or
12 operated is any of the following:

13 (1) An antique motor vehicle issued permanent registration under ORS 805.010.

14 (2) A farm trailer.

15 (3) A farm tractor.

16 (4) An implement of husbandry.

17 (5) A motor vehicle of special interest that is maintained as a collector's item and used for ex-
18 hibitions, parades, club activities and similar uses, but not used primarily for the transportation of
19 persons or property.

20 (6) A snowmobile, Class I or Class III all-terrain vehicle.

21 (7) Any motor vehicle [*when the owner of the vehicle has submitted to the Department of Trans-*
22 *portation a statement, in such form as may be required by the department, declaring that the vehicle*
23 *is continuously not being operated on the highways of this state and explaining the reasons therefor.*

24 *A person who falsely certifies under this subsection is subject to penalty under ORS 806.030] **not op-**
25 **erated on any highway or premises open to the public in this state.***

26 (8) A motor assisted scooter.

27 (9) An electric personal assistive mobility device.

28 **SECTION 2.** ORS 806.160 is amended to read:

29 806.160. (1) The Department of Transportation shall demand that a person provide the depart-
30 ment, within 30 days after the date of the mailing of the demand, **with** satisfactory proof that the

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 person is in compliance with the financial responsibility requirements as of the date of the letter
 2 from the department under ORS 806.150 if the department has reasonable grounds to believe that
 3 the person was or is violating any of the following, whether or not the person has been convicted
 4 of the violation:

5 (a) Driving uninsured under ORS 806.010.

6 (b) Falsification of financial responsibility under ORS 806.050.

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

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

10 *[(b) The department shall also notify the district attorney of the county in which the person resides*
 11 *of the department's belief that the person was or is committing violations of ORS 806.010 and*
 12 *806.050.]*

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

15 **SECTION 3.** ORS 806.170 is amended to read:

16 806.170. The Department of Transportation shall investigate all certifications of compliance with
 17 financial responsibility requirements made on reports of accidents under ORS 811.725 and 811.730.
 18 The department shall contact the insurers listed on the certifications to determine whether each
 19 certification is accurate. If the certification is not correct, an insurer shall [so] notify the depart-
 20 ment **no later than 60 days after receiving a request from the department for verification of**
 21 **the accuracy of the certification.**

22 **SECTION 4.** ORS 806.190 is amended to read:

23 806.190. (1) Every insurance carrier [*or insurance producer*] that issues property and casualty
 24 insurance policies, as defined in ORS chapter 731, in this state shall report to the Department of
 25 Transportation any person the carrier [*or producer*] has reason to believe is involved in an accident
 26 while the person is operating a vehicle in violation of ORS 806.010. The carrier [*or producer*] shall
 27 make the report required by this section whether or not the accident:

28 (a) Is a reportable accident under ORS 811.720; or

29 (b) Occurred on a highway or on any other premises open to the public.

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

33 *[(2)] (3) No civil liability shall accrue to [a carrier or insurance producer] an insurance carrier*
 34 *or any of its employees for reports made to the department under this section when the reports are*
 35 *made in good faith.*

36 **SECTION 5.** ORS 806.200 is amended to read:

37 806.200. (1) A person commits the offense of failure to make a future responsibility filing after
 38 an accident if the person:

39 (a) Is the owner or driver of [*a vehicle that is in any manner involved in an accident that is re-*
 40 *quired to be reported under ORS 811.720 and the person]* **a motor vehicle involved in an accident;**

41 **(b) At the time of the accident, operated the motor vehicle in violation of ORS 806.010;**

42 (c) Does not make a future responsibility filing within 30 days after the filing of the accident
 43 report required under ORS 811.725[.]; **and**

44 **(d) Is not exempt under ORS 806.210 from making a future responsibility filing.**

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

1 [(3)] (2) The employer of a driver is subject to the requirements and penalties under this section
 2 if the driver is an employee exempted from this section under ORS 806.210. If an employer is subject
 3 to this section, the registration of the employer's vehicles may be suspended as provided under ORS
 4 809.050.

5 [(4)] (3) In addition to any other penalties under this section, violation of this section subjects
 6 the violator to suspension of driving privileges as provided under ORS 809.415.

7 [(5)] (4) The offense described in this section, failure to make a future responsibility filing after
 8 an accident, is a Class B traffic violation.

9 **SECTION 6.** ORS 806.240 is amended to read:

10 806.240. Future responsibility filings required by ORS 806.200, 806.220 or 806.230 or by any other
 11 law of this state are subject to all of the following:

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

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

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

22 (b) A valid certificate of self-insurance issued by the department [of Transportation] under ORS
 23 806.130.

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

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

33 [(5)] (4) Whenever proof filed under this section no longer meets the requirements of this sec-
 34 tion, the department shall require the furnishing of other proof for the future responsibility filing.
 35 If [such] other proof is not [so] furnished, the department shall suspend the driving privileges of the
 36 person as provided under ORS 809.415 or, if applicable, any registration as provided under ORS
 37 809.050.

38 **SECTION 7.** ORS 806.245 is amended to read:

39 806.245. A termination of the requirement to maintain a future responsibility filing does not re-
 40 move a person's responsibility to comply with financial responsibility requirements. [Except as pro-
 41 vided in ORS 806.255,] The Department of Transportation shall terminate requirements for a future
 42 responsibility filing when any of the following occurs:

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

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

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

- 1 (a) The person was required to file because of an error committed by the department; or
 2 (b) The person was required to file because of an error committed by an insurance company in
 3 notifying the department regarding the correctness of a certification under ORS 806.150.
- 4 (4) A person who was required to file because of failure to respond to a department demand
 5 under ORS 806.160 requests termination and the department determines either:
- 6 (a) That the person was in fact in compliance with financial responsibility requirements as of
 7 the date of the department's letter of verification under ORS 806.150; or
 8 (b) That the person reasonably and in good faith believed that the person was in compliance
 9 with financial responsibility requirements on the date of the department's letter of verification.
- 10 (5) A person who was required to file because of failure to prove under ORS 806.210 that the
 11 person was in compliance with financial responsibility requirements requests termination and the
 12 department determines either:
- 13 (a) That the person was in fact in compliance with financial responsibility requirements at the
 14 time of the accident; or
 15 (b) That the person reasonably and in good faith believed that the person was in compliance
 16 with financial responsibility requirements at the time of the accident.
- 17 **(6) A person's hardship permit expires and the filing was required only for issuance of**
 18 **the hardship permit under ORS 807.240.**
- 19 **SECTION 8.** ORS 806.270 is amended to read:
- 20 806.270. (1) A certificate of insurance that is used to comply with future responsibility filing
 21 requirements under ORS 806.240 is subject to all of the following:
- 22 (a) Except as provided by ORS 806.280, the certificate must be issued by an insurance carrier
 23 doing business in this state.
- 24 (b) The certificate must show that the person required to make the future responsibility filing
 25 is covered by insurance that provides minimum coverage necessary for payment of the schedule of
 26 payments under ORS 806.070.
- 27 (c) The certificate must show that the person required to make the future responsibility filing
 28 is either:
- 29 (A) Insured by a policy meeting the requirements under ORS 806.080 that also covers all other
 30 persons who, with the consent of the insured, use the vehicles owned by the person making the fil-
 31 ing; or
 32 (B) Insured against loss arising from liabilities imposed by law for damages arising out of the
 33 ownership, operation, use or maintenance of motor vehicles not owned by the person required to
 34 make the filing.
- 35 (d) The certificate must:
- 36 *[(A) Be dated as of the date of the motor vehicle policy for which it is given;]*
 37 **(A) Include the effective date of the certification;**
 38 (B) Contain the policy number; and
 39 (C) Describe all vehicles covered by the policy unless the policy is issued with respect to all
 40 vehicles operated by the insured.
- 41 (e) The certificate must provide that the insurers will give the Department of Transportation
 42 notice of any cancellation of the policy within 10 days after the effective date of the cancellation
 43 or termination. The notice requirement under this paragraph does not apply where the insurance is
 44 terminated under ORS 806.290.
- 45 (2) The certificate or certificates must cover all vehicles that are registered in the name of or

1 operated by the person, except vehicles that are in storage and for which the current registration
2 plates and cards have been surrendered to the department.

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

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

8 **SECTION 9.** ORS 806.280 is amended to read:

9 806.280. The Department of Transportation *[shall]* **may** not accept a certificate of insurance for
10 purposes of future responsibility filings from an *[insurance company]* **insurer** that is not authorized
11 to do business in Oregon unless the **insurer is an eligible surplus lines insurer as defined in**
12 **ORS 735.405.** *[company meets all of the following requirements:]*

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

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

18 *[(3) The company must not be in default in any of its agreements or undertakings under a certif-*
19 *icate of insurance used for a future responsibility filing in this state. The department shall not accept*
20 *any certificate of insurance from a company described in this subsection so long as such default con-*
21 *tinues.]*

22 **SECTION 10.** ORS 809.417 is amended to read:

23 809.417. (1)(a) The Department of Transportation shall suspend the driving privileges of a person
24 who fails to file an accident report required under ORS 811.725 or 811.730.

25 (b) A suspension under this subsection shall continue until the person files the required report
26 or for five years from the date of suspension, whichever is sooner.

27 *[(2) The department shall suspend the driving privileges of any person for a period of time required*
28 *by this subsection if the person is involved in a motor vehicle accident at any time when the department*
29 *determines the person has been operating a vehicle in violation of ORS 806.010. A suspension under*
30 *this subsection shall be for a period of one year except that the department shall not reinstate any*
31 *driving privileges to the person until the person complies with future responsibility filing*
32 *requirements.]*

33 *[(3)(a)]* **(2)(a)** The department may suspend the driving privileges of a person who, while oper-
34 ating a motor vehicle, causes or contributes to an accident resulting in death to any other person
35 if the department has reason to believe that the person's incompetence, recklessness, criminal
36 negligence or unlawful operation of the vehicle caused or contributed to the accident.

37 (b) A suspension under this subsection shall continue for a period determined by the department
38 and shall be subject to any conditions the department determines to be necessary.

39 (c) The department may impose an immediate suspension of driving privileges of any person
40 described in paragraph (a) of this subsection without hearing and without receiving a record of the
41 conviction of the person of a crime if the department has reason to believe that the person may
42 endanger people or property if the person's driving privileges are not immediately suspended. A
43 suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440.

44 **SECTION 11.** ORS 806.040 is amended to read:

45 806.040. Financial responsibility requirements are designed to provide for minimum payment of

1 judgments of the type described in this section. [*When*] **For the purposes of** ORS 806.130, 806.140,
 2 [806.255,] 809.020, 809.130 [*or*] **and** 809.470, [*refer to*] judgments of the type described in this
 3 section[, *the reference is to a judgment that meets all of the following requirements*] **must**:

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

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

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

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

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

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

15 **SECTION 12.** ORS 806.010 is amended to read:

16 806.010. (1) A person commits the offense of driving uninsured if the person operates a motor
 17 vehicle in this state on any highway or premises open to the public in this state without either:

18 (a) The person being insured while driving the vehicle under a motor vehicle liability insurance
 19 policy that meets the requirements described under ORS 806.080; or

20 (b) The person or the owner of the vehicle providing the Department of Transportation with
 21 other satisfactory proof of compliance with the financial responsibility requirements of this state.

22 (2) Exemptions from this section are established under ORS 806.020.

23 (3) In addition to other penalties under this section, [*the following apply*.:]

24 [(a) A person who is involved in a motor vehicle accident at any time the person is in violation of
 25 this section is subject to suspension of the person's driving privileges under ORS 809.417.]

26 [(b)] a person who is convicted of violating this section is subject to ORS 806.230, if the person
 27 does not make future responsibility filings as required by that section.

28 (4) A person convicted for violation of this section must file with the department, and thereafter
 29 maintain for a period of three years, proof of financial responsibility that complies with ORS 806.060.
 30 Failure to comply with this subsection is subject to ORS 809.415.

31 (5) The offense described in this section, driving uninsured, is a Class B traffic violation.

32 **SECTION 13.** ORS 809.450 is amended to read:

33 809.450. (1) If a person whose driving privileges have been suspended for one of the reasons
 34 specified in subsection (2) of this section requests that the suspension be rescinded and specifies the
 35 reason for the request, the Department of Transportation may provide a hearing to determine the
 36 validity of the suspension. The department may rescind a suspension only as provided in subsection
 37 (3) of this section.

38 (2) This section applies to suspensions under:

39 (a) ORS 809.415 for failure to make a future responsibility filing; **and**

40 (b) ORS 809.415 for false certification of financial responsibility requirements[.]; *and*]

41 [(c) ORS 809.417 for involvement in a motor vehicle accident when the department has determined
 42 that the person has been operating a vehicle in violation of ORS 806.010.]

43 (3) The granting of a hearing under this section shall not stay the suspension. However, the
 44 department shall rescind the suspension if the department determines:

45 (a) That an error was committed by the department;

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

3 (c) That an error was committed by an insurance company in notifying the department regarding
4 the correctness of a certification under ORS 806.150;

5 (d) That the person was not in compliance with financial responsibility requirements as of the
6 date of the department's letter of verification under ORS 806.150 and the department also determines
7 that the person reasonably and in good faith believed that the person was in compliance with fi-
8 nancial responsibility requirements on the date of the department's letter of verification and that
9 the person currently is in compliance with financial responsibility requirements; or

10 (e) That at the time of the accident the person reasonably and in good faith believed that the
11 person was in compliance with financial responsibility requirements and the person is currently in
12 compliance with financial responsibility requirements.

13 (4) The hearing shall be held in the manner provided in ORS 809.440.

14 **SECTION 14. ORS 806.030, 806.250 and 806.255 are repealed.**

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