

Senate Bill 208

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 Attorney General Hardy Myers for Attorney General's Underage Drinking Task Force)

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**.

Provides that driving privileges of persons at least 15 years of age but under 21 years of age be suspended if minor is issued citation for attempting to purchase, purchasing, acquiring or possessing alcoholic beverages.

Requires that police officers issue notices of intent to suspend, and confiscate Oregon driver licenses and permits, when police officers cite certain minors for attempting to purchase, purchasing, acquiring or possessing alcoholic beverages. Specifies contents of notice of intent to suspend.

Authorizes issuance of temporary driving permits, hardship driver permits and emergency driver permits under certain circumstances. Restricts emergency driver permits to persons between 14 and 18 years of age.

Establishes procedure for seeking administrative and judicial review of suspension.

Allows surcharge on certain fees collected by Department of Transportation for reinstatement of driving privileges. Provides that surcharge be in amount determined by department to be necessary to pay costs of implementing Act.

A BILL FOR AN ACT

1
2 Relating to suspension of driving privileges; creating new provisions; and amending ORS 807.220 and
3 807.240.

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

5 **SECTION 1. Sections 2 to 16 of this 2009 Act are added to and made a part of the Oregon**
6 **Vehicle Code.**

7 **SECTION 2. Suspension of driving privileges for purchase or possession of liquor by per-**
8 **son under 21; confiscation of license or permit.** (1) Subject to the requirements of sections
9 **2 to 15 of this 2009 Act, the driving privileges of a person shall be suspended if the person**
10 **violates ORS 471.430 (1) when the person is at least 15 years of age but under 21 years of age.**

11 **(2) If a police officer issues a citation for violation of ORS 471.430 (1) to a person de-**
12 **scribed in subsection (1) of this section, the police officer shall give the person a notice of**
13 **intent to suspend and immediately confiscate from the person any driver license or permit**
14 **issued by this state that grants driving privileges to the person. The notice shall be in a form**
15 **prepared and provided by the Department of Transportation. The notice must include the**
16 **information described in section 3 of this 2009 Act.**

17 **(3) A police officer shall issue a notice of intent to suspend under subsection (2) of this**
18 **section even though the person has a driver license or permit issued by another state that**
19 **is not confiscated by the police officer.**

20 **(4) When a police officer issues a notice of intent to suspend to a person under this**
21 **section, the police officer shall issue a temporary driving permit to the person if the person**
22 **qualifies for a temporary driving permit under section 4 of this 2009 Act.**

23 **SECTION 3. Notice of intent to suspend; statement of rights and consequences.** (1) A
24 **notice of intent to suspend issued under section 2 of this 2009 Act must contain the address**

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 at which a request for hearing under section 6 (2) of this 2009 Act may be delivered and such
2 other information as may be required by the Department of Transportation under subsection
3 (3) of this section.

4 (2) A notice of intent to suspend issued under section 2 of this 2009 Act must contain a
5 statement of rights and consequences that advises the person issued the notice that:

6 (a) Purchase or possession of alcoholic beverages by persons under 21 years of age is il-
7 legal in Oregon under the provisions of ORS 471.430 (1).

8 (b) The driving privileges of a person are subject to suspension if the person attempts to
9 purchase, purchases, acquires or possesses alcoholic beverages when the person is under 21
10 years of age.

11 (c) The person has been issued the notice because the person has been cited for violating
12 ORS 471.430 (1).

13 (d) The suspension is scheduled to become effective on the 31st day after delivery of the
14 notice.

15 (e) The person has the right to a hearing to challenge the validity of the suspension be-
16 fore the suspension becomes effective and that the person must make a written request to
17 the Department of Transportation for a hearing.

18 (f) A request for a hearing must be received by the department at the address specified
19 on the notice not later than 10 days after the date the citation is issued.

20 (g) The hearing will be held before the suspension becomes effective.

21 (h) The driving privileges of the person will not be suspended if the person prevails at the
22 hearing.

23 (i) If the person does not prevail at the hearing, the suspension will be for a period of
24 90 days if it is the person's first suspension under sections 2 to 15 of this 2009 Act or for a
25 period of one year if it is the person's second or subsequent suspension under sections 2 to
26 15 of this 2009 Act.

27 (j) The person may be eligible for a hardship driver permit during the suspension period,
28 but in no event will the person be eligible for a hardship driver permit sooner than 30 days
29 after the suspension period begins.

30 (k) The person may be eligible for an emergency driver permit during the suspension
31 period.

32 (L) The person is not eligible for a hardship driver permit or emergency driver permit if
33 the person has been suspended three or more times under sections 2 to 15 of this 2009 Act.

34 (m) Oregon law requires that police officers issuing a notice must confiscate the Oregon
35 driver license or permit of the person violating the law.

36 (n) The police officer will issue a temporary driving permit to the person if the person
37 currently has driving privileges under Oregon law.

38 (o) A temporary driving permit issued by the police officer is valid for 30 days.

39 (3) The department may prescribe a form for notices of intent to suspend issued under
40 section 2 of this 2009 Act and may include in the form all information that the department
41 finds necessary.

42 **SECTION 4. Temporary driving permit.** (1) A police officer shall issue a temporary driv-
43 ing permit to a person who has received a notice of intent to suspend under section 2 of this
44 2009 Act unless:

45 (a) The person has not been issued an Oregon driver license or permit;

1 (b) The person has been issued an Oregon driver license or permit, but the license or
2 permit is not in the possession of the person at the time the notice is issued;

3 (c) The driving privileges of the person are suspended, revoked or canceled, or the person
4 is not entitled to driving privileges for any other reason, at the time the notice is issued; or

5 (d) The person has been issued a driver license or permit by another state or jurisdiction.

6 (2) Subject to the requirements of sections 2 to 15 of this 2009 Act, the Department of
7 Transportation shall establish the form and content of the temporary driving permits issued
8 under this section and provide law enforcement agencies with copies of those forms. All
9 temporary driving permits issued by police officers are issued on behalf of the department.

10 (3) A fee may not be charged for issuing a temporary driving permit under this section.
11 A temporary driving permit is valid for 30 days after the date of issuance of the citation and
12 grants the same driving privileges as those granted by the driver license or permit previously
13 issued to the person.

14 **SECTION 5. Report to department.** (1) Within such time as may be established by rule
15 of the Department of Transportation, a police officer who issues a notice of intent to suspend
16 under section 2 of this 2009 Act shall deliver to the department:

17 (a) Any driver license or permit confiscated by the police officer;

18 (b) A copy of the notice issued by the police officer; and

19 (c) A report containing the information described in subsection (2) of this section.

20 (2) A police officer who issues a notice of intent to suspend under section 2 of this 2009
21 Act shall deliver to the department a report that indicates:

22 (a) That the police officer had reasonable grounds to believe that the cited person at-
23 tempted to purchase, purchased, acquired or was in personal possession of alcoholic
24 beverages;

25 (b) That the police officer cited the person for violation of ORS 471.430 (1);

26 (c) The date the person was issued a citation for violation of ORS 471.430 (1);

27 (d) That the police officer gave the cited person a notice of intent to suspend; and

28 (e) Such other information as may be required by the department.

29 (3) The department may require that police officers use one or more forms specified by
30 the department for the report required by subsection (2) of this section.

31 **SECTION 6. Suspension upon receipt of police report; request for hearing.** (1) Upon re-
32 ceiving a report that complies with section 5 of this 2009 Act, the Department of Transpor-
33 tation shall suspend the driving privileges of the cited person on the 31st day after the date
34 the citation was issued unless the department determines after a hearing that one or more
35 of the requirements for suspension of driving privileges under sections 2 to 15 of this 2009
36 Act have not been met. Notwithstanding ORS 809.430, the department is not required to give
37 any notice of intent to suspend in addition to that provided under section 2 of this 2009 Act.

38 (2) A person who has received a notice of intent to suspend under section 2 of this 2009
39 Act may request a hearing to determine whether all of the requirements for suspension of
40 driving privileges under sections 2 to 15 of this 2009 Act have been met. The request must
41 be in writing and must be received by the department not later than 10 days after the date
42 the citation was issued. If the department receives a request for hearing within the time
43 allowed, the department shall provide a hearing as provided in section 7 of this 2009 Act.

44 **SECTION 7. Hearing.** (1) Except as otherwise provided under this section, a hearing on
45 a notice of intent to suspend issued under section 2 of this 2009 Act shall be conducted as a

1 contested case hearing under ORS chapter 183. The hearing shall be conducted by an ad-
2 ministrative law judge assigned from the Office of Administrative Hearings established under
3 ORS 183.605.

4 (2) Unless otherwise agreed to by the cited person and the Department of Transportation,
5 a hearing under this section shall be held in a place designated by the department that is
6 either in the county where the alleged offense occurred or that is not more than 100 miles
7 from the place where the offense is alleged to have occurred.

8 (3) The department may authorize the administrative law judge to issue a final order in
9 any hearing under this section.

10 (4) A person who requests a hearing under this section and who fails without just cause
11 to appear at the hearing in person or through an attorney waives the right to a hearing.
12 Notwithstanding ORS 183.417 (4), the department is not required to make any showing at a
13 hearing if a person waives the right to a hearing under this subsection.

14 (5) Except as provided in section 8 of this 2009 Act, the department shall hold the hearing
15 and issue a final order within 30 days after the date the citation is issued.

16 (6) The department or its authorized representative may administer oaths and shall issue
17 subpoenas for the attendance of witnesses and production of documents at the hearing as
18 may be requested by the cited person or the department.

19 (7) Testimony and exhibits may be introduced at a hearing under this section. Testimony
20 shall be recorded by a means designated by the department. The record of the proceedings
21 may not be transcribed unless requested by the department or by the cited person.

22 **SECTION 8. Waiver of failure to request or appear at hearing; delayed hearings and or-**
23 **ders.** (1) Notwithstanding sections 6 and 7 of this 2009 Act, the Department of Transportation
24 may waive the failure of a person to request a hearing within the time allowed or the failure
25 of a person to appear at a hearing under section 7 of this 2009 Act, if:

26 (a) The person was unable to request a hearing or appear at the hearing because of
27 physical incapacity that is verified by a physician to the satisfaction of the department to
28 be of a nature that would prevent the person from making the request or attending the
29 hearing.

30 (b) The person was unable to request a hearing or appear at the hearing because of a
31 death in the immediate family of the person, verified to the satisfaction of the department.

32 (c) The person did not request a hearing or appear at the hearing because of an error
33 of the department.

34 (d) The department finds other just cause, as established by rules of the department.

35 (2) The department may hold a hearing and issue a final order later than the times
36 specified in section 7 of this 2009 Act if:

37 (a) The department has waived the failure of a person to request a hearing within the
38 time allowed or the failure of a person to appear at a hearing under subsection (1) of this
39 section;

40 (b) The person requesting the hearing requests a change of administrative law judge un-
41 der ORS 183.645;

42 (c) The police officer who issued the notice of intent to suspend, or any other police of-
43 ficer who has been subpoenaed to appear at the hearing, is unable to appear at the hearing
44 due to the officer's illness, vacation or official duty conflicts; or

45 (d) The department finds other just cause, as established by rules of the department.

1 **(3)(a) Notwithstanding ORS 809.430, the department is not required to give any additional**
 2 **notice of intent to suspend if a delayed hearing is held, or delayed final order is issued, pur-**
 3 **suant to subsection (2) of this section. If a delayed hearing is held pursuant to subsection (2)**
 4 **of this section, the department shall issue a final order within 10 days after the hearing is**
 5 **held.**

6 **(b) The department by rule shall establish conditions that constitute official duty con-**
 7 **flicts for the purposes of subsection (2)(c) of this section. A hearing may not be rescheduled**
 8 **more than once under subsection (2)(c) of this section.**

9 **(4)(a) Except as provided in paragraph (b) of this subsection, the department shall sus-**
 10 **pend the driving privileges of a person on the date specified in section 6 of this 2009 Act even**
 11 **though a delayed hearing is held, or delayed final order is issued, pursuant to this section.**

12 **(b) The department may not suspend the driving privileges of a person on the date**
 13 **specified in section 6 of this 2009 Act if:**

14 **(A) A delayed hearing is held pursuant to subsection (2)(a) of this section because the**
 15 **person failed to request a hearing or appear at a hearing due to an error of the department;**
 16 **or**

17 **(B) A delayed hearing is held pursuant to subsection (2)(c) of this section.**

18 **(5) If the department delays suspension of a person's driving privileges under subsection**
 19 **(4)(b) of this section, and after the delayed hearing is conducted the administrative law judge**
 20 **determines that the requirements for a suspension of driving privileges specified in section**
 21 **9 of this 2009 Act have been met, the department shall suspend the driving privileges of the**
 22 **person five days after the final order is issued.**

23 **SECTION 9. Matters considered at hearing.** **(1) A hearing under section 7 of this 2009 Act**
 24 **is limited to determining whether the suspension of driving privileges is valid. A suspension**
 25 **under sections 2 to 15 of this 2009 Act is valid if:**

26 **(a) The person to be suspended violated ORS 471.430 (1).**

27 **(b) A police officer issued a citation for violation of ORS 471.430 (1) to the person to be**
 28 **suspended.**

29 **(c) The person to be suspended, at the time of the citation, was at least 15 years of age**
 30 **but under 21 years of age.**

31 **(d) The person to be suspended was given a notice of intent to suspend as required by**
 32 **section 2 of this 2009 Act.**

33 **(2) This section shall be narrowly construed so as to effect the legislative purpose of**
 34 **limiting the scope of hearings under sections 2 to 15 of this 2009 Act.**

35 **SECTION 10. Role of police officer in hearing.** **Notwithstanding ORS 9.160 and 9.320, in**
 36 **any hearing under section 7 of this 2009 Act in which a city attorney or district attorney does**
 37 **not appear, the police officer who made the report required by section 5 of this 2009 Act may**
 38 **present evidence, examine and cross-examine witnesses and make arguments relating to:**

39 **(1) The application of statutes and rules to the facts in the case;**

40 **(2) The literal meaning of the statutes or rules at issue in the case;**

41 **(3) The admissibility of evidence; and**

42 **(4) Proper procedures to be used in the hearing.**

43 **SECTION 11. Judicial review of order after hearing.** **(1) If a hearing has been conducted**
 44 **under section 7 of this 2009 Act and the administrative law judge has determined that the**
 45 **requirements for a suspension of driving privileges specified in section 9 of this 2009 Act have**

1 been met, the person requesting the hearing may seek judicial review of the final order in
2 the proceeding in the manner provided by this section.

3 (2) A person seeking judicial review of a final order under this section must file a petition
4 in the circuit court for the county where the person resides or, if the person does not reside
5 in Oregon, in the circuit court of the county in which the violation occurred. The petition
6 must be filed not more than 30 days after issuance of the final order in the proceeding.

7 (3) Upon the filing of a petition under this section, the court shall set the matter for
8 hearing and give notice to the Department of Transportation and the petitioner of the date
9 and place of the hearing. The hearing shall be set not earlier than 10 days after the notice
10 is sent to the department and the petitioner, unless the hearing is waived by the department
11 and the petitioner.

12 (4) A suspension of driving privileges imposed under sections 2 to 15 of this 2009 Act re-
13 mains in effect pending any appeal or remand of a final order, and the suspension may not
14 be stayed pending appeal or decision on remand.

15 **SECTION 12. Procedure for judicial review.** (1) The petition to the circuit court appealing
16 an order of the Department of Transportation filed under section 11 of this 2009 Act must
17 state the ground or grounds upon which the petitioner contends the order should be reversed
18 or remanded.

19 (2) The court shall conduct the review without a jury. Review shall be limited to the re-
20 cord of the department's hearing.

21 (3) The petitioner or the department may appeal from the judgment of the court to the
22 Court of Appeals.

23 (4) Upon review in the circuit court and Court of Appeals, the court may affirm, reverse
24 or remand the order as follows:

25 (a) If the court finds that the department has erroneously interpreted a provision of law
26 and that a correct interpretation compels a particular action, the court shall:

27 (A) Set aside or modify the order; or

28 (B) Remand the case to the department for further action under a correct interpretation
29 of the provision of law.

30 (b) The court shall remand the order to the department if the court finds the depart-
31 ment's exercise of discretion to be:

32 (A) Outside the range of discretion delegated to the department by law;

33 (B) Inconsistent with a department rule, an officially stated department position or a
34 prior department practice, if the inconsistency is not explained by the department; or

35 (C) Otherwise in violation of a constitutional or statutory provision.

36 (c) The court shall set aside or remand the order if the court finds that the order is not
37 supported by substantial evidence in the record.

38 (5) Upon review, the court shall affirm the department's order unless the court finds a
39 ground for setting aside, modifying or remanding to the department under a specified pro-
40 vision of this section.

41 (6) In any review under this section, the court shall also review de novo determinations
42 made by the department that are subject to ORS 183.650 (4).

43 **SECTION 13. Duration of suspension; eligibility for hardship or emergency driver permit.**

44 (1) A suspension of driving privileges under sections 2 to 15 of this 2009 Act is for a period
45 of:

1 (a) 90 days for the first suspension under sections 2 to 15 of this 2009 Act.

2 (b) One year for a second or subsequent suspension under sections 2 to 15 of this 2009
3 Act.

4 (2) Except as provided in subsection (4) of this section, a person is eligible for a hardship
5 driver permit under ORS 807.240 if the person's driving privileges are suspended under
6 sections 2 to 15 of this 2009 Act. A hardship driver permit may not be issued to a person who
7 is eligible for an emergency driver permit under ORS 807.220 (4). A hardship driver permit
8 may be issued under this subsection:

9 (a) Not earlier than 30 days after the suspension period begins if the person is being
10 suspended for the first time under the provisions of sections 2 to 15 of this 2009 Act.

11 (b) Not earlier than 90 days after the suspension period begins if the person is being
12 suspended for the second time under the provisions of sections 2 to 15 of this 2009 Act.

13 (3) Except as provided in subsection (4) of this section, a person under 18 years of age
14 may be eligible for an emergency driver permit under ORS 807.220 (4) if the person's driving
15 privileges are suspended under sections 2 to 15 of this 2009 Act.

16 (4) A hardship driver permit under ORS 807.240 or emergency driver permit under ORS
17 807.220 (4) may not be issued to a person whose driving privileges have been suspended three
18 or more times under sections 2 to 15 of this 2009 Act.

19 **SECTION 14. Erroneous suspensions by reason of false identification.** (1) If the Depart-
20 ment of Transportation determines that the department has erroneously suspended the
21 driving privileges of a person under sections 2 to 15 of this 2009 Act because the person cited
22 for violation of ORS 471.430 (1) gave false identification to the police officer issuing the notice
23 of intent to suspend:

24 (a) The department shall immediately restore the driving privileges of the person erro-
25 neously suspended; and

26 (b) The department shall immediately suspend the driving privileges of the person who
27 gave the false identification, if known.

28 (2) If the department suspends the driving privileges of a person under this section, no-
29 tice of the suspension need only be given to the person in the manner provided by ORS
30 809.430. A person receiving notice under this subsection may request a hearing no later than
31 10 days after the notice is received. The department is not required to conduct a hearing or
32 issue a final order within the times specified in section 7 of this 2009 Act for a suspension
33 under this section.

34 **SECTION 15. Rescission of suspension.** The Department of Transportation shall imme-
35 diately rescind a suspension of driving privileges under section 2 to 15 of this 2009 Act if the
36 person is found by a court to be not guilty of violating ORS 471.430 (1) on the date specified
37 in the citation. The department shall rescind the suspension when the department receives
38 notice from the court of the court's judgment, or when the person presents the department
39 with a certified copy of the judgment of the court clearly showing the person has been found
40 to be not guilty of violating ORS 471.430 (1) on the date specified in the citation.

41 **SECTION 16. Surcharge on fees for reinstatement of driving privileges.** The Department
42 of Transportation by rule may impose a surcharge on the fees provided in ORS 807.370 (23)
43 and (24). The surcharge shall be collected whenever a fee under ORS 807.370 (23) or (24) is
44 collected. The surcharge shall be in an amount determined by the department to be neces-
45 sary to pay the department's costs of implementing sections 2 to 15 of this 2009 Act.

1 **SECTION 17.** (1) Sections 1 to 16 of this 2009 Act and the amendments to ORS 807.220
 2 and 807.240 by sections 18 and 19 of this 2009 Act become operative July 1, 2010.

3 (2) Notwithstanding subsection (1) of this section, prior to July 1, 2010, the Department
 4 of Transportation may adopt rules and take all other measures determined by the depart-
 5 ment to be necessary for implementation of sections 1 to 16 of this 2009 Act on July 1, 2010.

6 **SECTION 18.** ORS 807.220 is amended to read:

7 807.220. (1) The Department of Transportation shall provide for the issuance of emergency driver
 8 permits in a manner consistent with this section.

9 (2) Except as otherwise provided in this section an emergency driver permit is subject to the
 10 fees, provisions, conditions, prohibitions and penalties applicable to a Class C license.

11 (3) The following apply to an emergency driver permit:

12 (a) The department may issue an emergency driver permit to a person **at least** 14 years of age
 13 [or older] **but under 18 years of age.**

14 (b) The department shall place restrictions on the permit that designate the routes over which
 15 the permit is valid. The department shall designate routes it determines necessary from the facts
 16 creating the emergency.

17 (c) The permit shall only be issued if the department is satisfied that an emergency exists that
 18 requires operation of a motor vehicle by the applicant.

19 (d) The department may establish a form for the permit that differs from the form required for
 20 a license.

21 (e) The only fee required for issuance of the permit is the emergency driver permit fee under
 22 ORS 807.370.

23 (f) The department may establish a period for the expiration of the permit that coincides with
 24 the end of the emergency that is the basis for the permit.

25 (g) The department shall cancel the permit if the department determines that the holder of the
 26 permit has operated a motor vehicle over any highway or for any purpose other than one approved
 27 under the permit.

28 (h) If an emergency driver permit is canceled, the person issued the permit is ineligible to be
 29 issued another emergency driver permit for a period of one year.

30 (i) In addition to any other application requirements for the emergency driver permit, the ap-
 31 plicant must obtain the endorsement on the application of the sheriff of the county in which the
 32 applicant resides.

33 (4) The department may issue an emergency driver permit, if the person qualifies for the permit,
 34 to a person whose driving privileges are suspended under ORS 809.280 **or sections 2 to 15 of this**
 35 **2009 Act** because the department has received an order of denial of driving privileges under ORS
 36 809.260. In addition to other emergencies, a situation that leaves the applicant with no alternative
 37 means to travel to and from school is an emergency for purposes of a permit issued under this
 38 subsection.

39 **SECTION 19.** ORS 807.240 is amended to read:

40 807.240. The Department of Transportation shall provide for issuance of hardship driver permits
 41 in a manner consistent with this section. A hardship driver permit grants the driving privileges
 42 provided in this section or under the permit. Except as otherwise provided in this section, a hardship
 43 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to
 44 a license. The following apply to a hardship driver permit:

45 (1) The department may only issue a permit to a person whose driving privileges under the ve-

1 hicle code have been suspended.

2 (2) Except as provided in ORS 813.520, the department may reinstate the privilege to operate a
3 motor vehicle of any person whose license to operate a motor vehicle has been suspended by issuing
4 the person a hardship permit described under this section if such person qualifies under this section,
5 ORS 807.250, 807.252 and 813.500. However, the department may not issue a hardship permit au-
6 thORIZING a person to drive a commercial motor vehicle.

7 (3) To qualify for a hardship permit, a person must do all of the following in addition to any
8 applicable provisions under ORS 807.250, 807.252 and 813.500:

9 (a) The person must submit to the department an application for the permit that demonstrates
10 the person's need for the permit.

11 (b) The person must present satisfactory evidence, as determined by the department by rule:

12 (A) That the person must operate a motor vehicle as a requisite of the person's occupation or
13 employment;

14 (B) That the person must operate a motor vehicle to seek employment or to get to or from a
15 place of employment;

16 (C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment
17 or rehabilitation program;

18 (D) That the person or a member of the person's immediate family requires medical treatment
19 on a regular basis and that the person must operate a motor vehicle in order that the treatment
20 may be obtained; or

21 (E) That the person's driving privileges are **suspended under ORS 809.280 because the de-**
22 **partment received an order of denial of driving privileges under ORS 809.260, are** suspended
23 for driving uninsured in violation of ORS 806.010 or for violation of ORS 165.805 or 471.430, and **the**
24 **person's driving privileges** are not suspended for any other reason and that the person must op-
25 erate a motor vehicle in order to provide necessary services to the person or to a member of the
26 person's family. The department shall determine by rule what constitutes necessary services for
27 purposes of this subparagraph. The rule shall include as necessary services, but need not be limited
28 to, grocery shopping, driving the person or the person's children to school, driving to medical ap-
29 pointments and caring for elderly family members.

30 (c) If the person is applying for a permit because the person or a member of the person's im-
31 mediate family requires medical treatment on a regular basis, the person must present, in addition
32 to any evidence required by the department under paragraph (b) of this subsection, a statement
33 signed by a licensed physician or certified nurse practitioner that indicates that the person or a
34 member of the person's immediate family requires medical treatment on a regular basis.

35 (d) The person must show that the person is not incompetent to drive nor a habitual incompe-
36 tent, reckless or criminally negligent driver as established by the person's driving record in this or
37 any other jurisdiction.

38 (e) The person must make a future responsibility filing.

39 (f) The person must submit any other information the department may require for purposes of
40 determining whether the person qualifies under this section, ORS 807.250, 807.252, 813.500 and
41 813.520.

42 (4) If the department finds that the person meets the requirements of this section and any ap-
43 plicable requirements under ORS 807.250, 807.252, 813.500 and 813.520, the department may issue the
44 person a hardship permit, valid for the duration of the suspension or for a shorter period of time
45 established by the department unless sooner suspended or revoked under this section. If the de-

1 department issues the permit for a period shorter than the suspension period, renewal of the permit
2 shall be on such terms and conditions as the department may require. The permit:

3 (a) Shall limit the holder to operation of a motor vehicle only during specified times.

4 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a
5 motor vehicle that the department deems proper or necessary. The limitations may include any
6 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS
7 811.175 or 811.182.

8 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of
9 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or
10 813.510, may suspend or revoke the hardship permit.

11 (6) The fee charged for application or issuance of a hardship driver permit is the hardship driver
12 permit application fee under ORS 807.370. The department may not refund the fee if the application
13 is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit
14 is the same fee as that charged for renewal of a license. The application fee charged under this
15 subsection is in addition to any fee charged for reinstatement of driving privileges under ORS
16 807.370.

17 (7) The department may issue a permit granting the same driving privileges as those suspended
18 or may issue a permit granting fewer driving privileges, as the department determines necessary to
19 assure safe operation of motor vehicles by the permit holder.

20 **(8) The Department of Transportation may not issue a hardship permit under this section**
21 **to a person who is eligible for an emergency driver permit under ORS 807.220 (4).**

22 **SECTION 20. The section captions used in this 2009 Act are provided only for the con-**
23 **venience of the reader and do not become part of the statutory law of this state or express**
24 **any legislative intent in the enactment of this 2009 Act.**

25 **SECTION 21. (1) Sections 1 to 15 of this 2009 Act and the amendments to ORS 807.220**
26 **and 807.240 by sections 18 and 19 of this 2009 Act apply to violations of ORS 471.430 (1) com-**
27 **mitted on or after July 1, 2010.**

28 **(2) The surcharge on fees collected under ORS 807.370 (23) and (24) imposed by section**
29 **16 of this 2009 Act first applies to fees collected on or after July 1, 2010.**

30
