

Senate Bill 232

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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**.

Provides that driving privileges of person be suspended if person is issued citation for furnishing alcoholic liquor to minor. Provides for graduated length of suspension based on age of minor.

Requires that police officer issue notice of intent to suspend, and confiscate Oregon driver license or permit, when police officer cites person for furnishing alcoholic liquor. 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 for furnishing alcoholic liquor to a minor; creating new
3 provisions; and amending ORS 807.220 and 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 furnishing alcoholic liquor to a minor;**
8 **confiscation of license or permit.** (1) Subject to the requirements of sections 2 to 15 of this
9 2009 Act, the driving privileges of a person shall be suspended if the person violates ORS
10 471.410 (2).

11 (2) If a police officer issues a citation for violation of ORS 471.410 (2), the police officer
12 shall give the person a notice of intent to suspend and immediately confiscate from the
13 person any driver license or permit issued by this state that grants driving privileges to the
14 person. The notice must be in a form prepared and provided by the Department of Trans-
15 portation. The notice must include the information described in section 3 of this 2009 Act.

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

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

22 **SECTION 3. Notice of intent to suspend; statement of rights and consequences.** (1) A
23 notice of intent to suspend issued under section 2 of this 2009 Act must contain the address
24 at which a request for hearing under section 6 (2) of this 2009 Act may be delivered and such

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 other information as may be required by the Department of Transportation under subsection
2 (3) of this section.

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

5 (a) Selling, giving or otherwise making available any alcoholic liquor to a person under
6 21 years of age is illegal in Oregon under the provisions of ORS 471.410 (2).

7 (b) The driving privileges of a person are subject to suspension if the person attempts to
8 sell or give, sells, gives or otherwise makes available any alcoholic liquor to a person under
9 21 years of age.

10 (c) The person has been issued the notice because the person has been cited for violating
11 ORS 471.410 (2).

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

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

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

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

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

22 (i) If the person does not prevail at the hearing, the suspension is for the following pe-
23 riods of time:

24 (A) For a first offense:

25 (i) 90 days, if the person to whom the alcoholic liquor was made available is at least 18
26 years of age but under 21 years of age.

27 (ii) 120 days, if the person to whom the alcoholic liquor was made available is at least 15
28 years of age but under 18 years of age.

29 (iii) 180 days, if the person to whom the alcoholic liquor was made available is at least
30 12 years of age but under 15 years of age.

31 (iv) One year, if the person to whom the alcoholic liquor was made available is under 12
32 years of age.

33 (B) For a second or subsequent offense:

34 (i) 180 days, if the person to whom the alcoholic liquor was made available is at least 18
35 years of age but under 21 years of age.

36 (ii) 240 days, if the person to whom the alcoholic liquor was made available is at least 15
37 years of age but under 18 years of age.

38 (iii) One year, if the person to whom the alcoholic liquor was made available is at least
39 12 years of age but under 15 years of age.

40 (iv) Two years, if the person to whom the alcoholic liquor was made available is under
41 12 years of age.

42 (j) Notwithstanding paragraph (i) of this subsection, if the person does not prevail at the
43 hearing, and the person is under 15 years of age, the person's driving privileges or right to
44 apply for driving privileges shall be suspended at least until the person reaches 16 years of
45 age.

1 (k) The person may be eligible for a hardship driver permit during the suspension period,
2 but in no event will the person be eligible for a hardship driver permit sooner than 30 days
3 after the suspension period begins.

4 (L) The person may be eligible for an emergency driver permit during the suspension
5 period.

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

8 (n) Oregon law requires that a police officer issuing a notice of intent to suspend must
9 confiscate the Oregon driver license or permit of the person cited.

10 (o) The police officer shall issue a temporary driving permit to the person if the person
11 currently has driving privileges under Oregon law.

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

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

16 **SECTION 4. Temporary driving permit.** (1) A police officer shall issue a temporary driv-
17 ing permit to a person who has received a notice of intent to suspend under section 2 of this
18 2009 Act unless:

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

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

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

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

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

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

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

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

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

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

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

41 (a) That the police officer had reasonable grounds to believe that the cited person at-
42 tempted to sell or give, sold, gave or otherwise made available alcoholic liquor to a person
43 under 21 years of age;

44 (b) That the police officer cited the person for violation of ORS 471.410 (2);

45 (c) The date the person was issued a citation for violation of ORS 471.410 (2);

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

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

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

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

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

18 **SECTION 7. Hearing.** (1) Except as otherwise provided under this section, a hearing on
19 a notice of intent to suspend issued under section 2 of this 2009 Act shall be conducted as a
20 contested case hearing under ORS chapter 183. The hearing shall be conducted by an ad-
21 ministrative law judge assigned from the Office of Administrative Hearings established under
22 ORS 183.605.

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

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

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

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

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

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

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

45 (a) The person was unable to request a hearing or appear at the hearing because of

1 physical incapacity that is verified by a physician to the satisfaction of the department to
 2 be of a nature that would prevent the person from making the request or attending the
 3 hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (5) If the department delays suspension of a person's driving privileges under subsection
 38 (4)(b) of this section, and after the delayed hearing is conducted the administrative law judge
 39 determines that the requirements for a suspension of driving privileges specified in section
 40 9 of this 2009 Act have been met, the department shall suspend the driving privileges of the
 41 person five days after the final order is issued.

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

45 (a) The person to be suspended violated ORS 471.410 (2).

1 (b) A police officer issued a citation for violation of ORS 471.410 (2) to the person to be
 2 suspended.

3 (c) The person to be suspended was given a notice of intent to suspend as required by
 4 section 2 of this 2009 Act.

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

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

- 11 (1) The application of statutes and rules to the facts in the case;
- 12 (2) The literal meaning of the statutes or rules at issue in the case;
- 13 (3) The admissibility of evidence; and
- 14 (4) Proper procedures to be used in the hearing.

15 **SECTION 11. Judicial review of order after hearing.** (1) If a hearing has been conducted
 16 under section 7 of this 2009 Act and the administrative law judge has determined that the
 17 requirements for a suspension of driving privileges specified in section 9 of this 2009 Act have
 18 been met, the person requesting the hearing may seek judicial review of the final order in
 19 the proceeding in the manner provided by this section.

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

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

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

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

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

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

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

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

- 44 (A) Set aside or modify the order; or
- 45 (B) Remand the case to the department for further action under a correct interpretation

1 of the provision of law.

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

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

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

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

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

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

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

15 **SECTION 13. Duration of suspension; eligibility for hardship driver permit or emergency**
16 **driver permit.** (1) A suspension of driving privileges under sections 2 to 15 of this 2009 Act
17 is for the following periods of time:

18 (a) For a first offense:

19 (A) 90 days, if the person to whom the alcoholic liquor was made available is at least 18
20 years of age but under 21 years of age.

21 (B) 120 days, if the person to whom the alcoholic liquor was made available is at least
22 15 years of age but under 18 years of age.

23 (C) 180 days, if the person to whom the alcoholic liquor was made available is at least 12
24 years of age but under 15 years of age.

25 (D) One year, if the person to whom the alcoholic liquor was made available is under 12
26 years of age.

27 (b) For a second or subsequent offense:

28 (A) 180 days, if the person to whom the alcoholic liquor was made available is at least
29 18 years of age but under 21 years of age.

30 (B) 240 days, if the person to whom the alcoholic liquor was made available is at least
31 15 years of age but under 18 years of age.

32 (C) One year, if the person to whom the alcoholic liquor was made available is at least
33 12 years of age but under 15 years of age.

34 (D) Two years, if the person to whom the alcoholic liquor was made available is under
35 12 years of age.

36 (2) Notwithstanding subsection (1) of this section, if the person is under 15 years of age,
37 the person's driving privileges or right to apply for driving privileges shall be suspended at
38 least until the person reaches 16 years of age.

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

44 (a) Not earlier than 30 days after the suspension period begins if the person's driving
45 privileges are being suspended for the first time under sections 2 to 15 of this 2009 Act.

1 (b) Not earlier than 90 days after the suspension period begins if the person's driving
2 privileges are being suspended for the second time under sections 2 to 15 of this 2009 Act.

3 (4) Except as provided in subsection (5) of this section, a person under 18 years of age
4 may be eligible for an emergency driver permit under ORS 807.220 if the person's driving
5 privileges are suspended under sections 2 to 15 of this 2009 Act.

6 (5) A hardship driver permit under ORS 807.240 or emergency driver permit under ORS
7 807.220 may not be issued to a person whose driving privileges have been suspended three
8 or more times under sections 2 to 15 of this 2009 Act.

9 **SECTION 14. Erroneous suspensions by reason of false identification.** (1) If the Depart-
10 ment of Transportation determines that the department has erroneously suspended the
11 driving privileges of a person under sections 2 to 15 of this 2009 Act because the person cited
12 for violation of ORS 471.410 (2) gave false identification to the police officer issuing the notice
13 of intent to suspend:

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

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

18 (2) If the department suspends the driving privileges of a person under this section, no-
19 tice of the suspension need be given only to the person in the manner provided by ORS
20 809.430. A person receiving notice under this subsection may request a hearing no later than
21 10 days after the notice is received. The department is not required to conduct a hearing or
22 issue a final order within the times specified in section 7 of this 2009 Act for a suspension
23 under this section.

24 **SECTION 15. Rescission of suspension.** The Department of Transportation shall imme-
25 diately rescind a suspension of driving privileges under sections 2 to 15 of this 2009 Act if the
26 person is found by a court to be not guilty of violating ORS 471.410 (2) on the date specified
27 in the citation. The department shall rescind the suspension when the department receives
28 notice from the court of the court's judgment, or when the person presents the department
29 with a certified copy of the judgment of the court clearly showing the person has been found
30 to be not guilty of violating ORS 471.410 (2) on the date specified in the citation.

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

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

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

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

42 807.220. (1) The Department of Transportation shall provide for the issuance of emergency driver
43 permits in a manner consistent with this section.

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

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

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

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

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

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

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

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

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

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

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

23 (4) The department may issue an emergency driver permit, if the person qualifies for the permit,
 24 to a person whose driving privileges are suspended under ORS 809.280 **or sections 2 to 15 of this**
 25 **2009 Act** because the department has received an order of denial of driving privileges under ORS
 26 809.260. In addition to other emergencies, a situation that leaves the applicant with no alternative
 27 means to travel to and from school is an emergency for purposes of a permit issued under this
 28 subsection.

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

30 807.240. The Department of Transportation shall provide for issuance of hardship driver permits
 31 in a manner consistent with this section. A hardship driver permit grants the driving privileges
 32 provided in this section or under the permit. Except as otherwise provided in this section, a hardship
 33 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to
 34 a license. The following apply to a hardship driver permit:

35 (1) The department may only issue a permit to a person whose driving privileges under the ve-
 36 hicle code have been suspended.

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

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

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

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

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

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

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

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

11 (E) That the person's driving privileges are **suspended under ORS 809.280 because the de-**
12 **partment received an order of denial of driving privileges under ORS 809.260, are** suspended
13 for driving uninsured in violation of ORS 806.010 or for violation of ORS 165.805, **471.410 (2)** or
14 **471.430, and the person's driving privileges** are not suspended for any other reason and that the
15 person must operate a motor vehicle in order to provide necessary services to the person or to a
16 member of the person's family. The department shall determine by rule what constitutes necessary
17 services for purposes of this subparagraph. The rule shall include as necessary services, but need
18 not be limited to, grocery shopping, driving the person or the person's children to school, driving
19 to medical appointments and caring for elderly family members.

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

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

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

29 (f) The person must submit any other information the department may require for purposes of
30 determining whether the person qualifies under this section, ORS 807.250, 807.252, 813.500 and
31 813.520.

32 (4) If the department finds that the person meets the requirements of this section and any ap-
33 plicable requirements under ORS 807.250, 807.252, 813.500 and 813.520, the department may issue the
34 person a hardship permit, valid for the duration of the suspension or for a shorter period of time
35 established by the department unless sooner suspended or revoked under this section. If the de-
36 partment issues the permit for a period shorter than the suspension period, renewal of the permit
37 shall be on such terms and conditions as the department may require. The permit:

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

39 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a
40 motor vehicle that the department deems proper or necessary. The limitations may include any
41 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS
42 811.175 or 811.182.

43 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of
44 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or
45 813.510, may suspend or revoke the hardship permit.

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

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

10 **(8) The department may not issue a hardship driver permit under this section to a person**
11 **who is eligible for an emergency driver permit under ORS 807.220.**

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

15 **SECTION 21. (1) Sections 1 to 15 of this 2009 Act and the amendments to ORS 807.220**
16 **and 807.240 by sections 18 and 19 of this 2009 Act apply to violations of ORS 471.410 (2) com-**
17 **mitted on or after July 1, 2010.**

18 **(2) The surcharge on fees collected under ORS 807.370 (23) and (24) imposed by section**
19 **16 of this 2009 Act first applies to fees collected on or after July 1, 2010.**

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