

# Senate Bill 825

Sponsored by Senator WINTERS, Representative CAMERON; Senators BOQUIST, FERRIOLI, GEORGE, GIROD, KRUSE, MORSE, TELFER, WHITSETT, Representatives BENTZ, BERGER, ESQUIVEL, FREEMAN, GARRARD, GILMAN, HANNA, JENSON, KENNEMER, KRIEGER, OLSON, THOMPSON, WHISNANT

## 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**.

Directs police officer to confiscate registration card and to mark registration plate with special sticker if driver is arrested for or issued citation for driving while suspended or revoked.

Creates offense of removal of special stickers. Punishes by maximum fine of \$180.

Creates offense of knowingly furnishing motor vehicle to person who is not authorized to drive. Punishes by maximum fine of \$720.

Increases penalty for second and subsequent offenses of vehicle operating without driving privileges to maximum of \$6,250 fine, one year's imprisonment, or both.

Increases penalty for driving while suspended or revoked to maximum of \$6,250 fine, one year's imprisonment, or both.

## A BILL FOR AN ACT

1  
2 Relating to transportation; creating new provisions; and amending ORS 807.010, 810.530 and 811.175.

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

4 **SECTION 1. Sections 2 to 12 of this 2009 Act are added to and made a part of the Oregon**  
5 **Vehicle Code.**

6 **SECTION 2. (1) If the driver of a vehicle is arrested for or issued a citation for driving**  
7 **a motor vehicle while the driver's driving privileges are suspended or revoked in violation**  
8 **of ORS 811.175 or 811.182, a police officer shall confiscate the registration card for the vehicle**  
9 **if the card is located in the vehicle and shall mark each registration plate of the vehicle with**  
10 **a special sticker in accordance with procedures prescribed by rule by the Department of**  
11 **Transportation.**

12 **(2) The special stickers described in subsection (1) of this section shall be clearly distin-**  
13 **guishable from registration stickers issued by this state.**

14 **(3) Upon the confiscation of a registration card or the marking of registration plates**  
15 **under subsection (1) of this section, the officer shall issue the driver a temporary registra-**  
16 **tion card that expires 60 days after the date of the arrest or the date the citation was issued.**  
17 **The department shall provide police officers with temporary registration cards for issuance**  
18 **as required under this section.**

19 **(4) The officer who confiscates the registration card under subsection (1) of this section**  
20 **shall provide the driver with written notice of the circumstances under which the depart-**  
21 **ment may cancel the vehicle registration. The notice shall be on a form prepared and pro-**  
22 **vided by the department and shall contain the information required by section 5 of this 2009**  
23 **Act.**

24 **(5) Within a period of time determined by the department by rule, the officer shall report**  
25 **action taken under this section to the department and shall deliver to the department the**  
26 **confiscated registration card and a report of action taken under this section.**

**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       **SECTION 3.** A police officer who sees a vehicle with registration plates marked as pro-  
2       vided in section 2 of this 2009 Act being operated on a highway or on premises open to the  
3       public may stop the vehicle for the sole purpose of ascertaining whether the driver is oper-  
4       ating the vehicle in violation of ORS 811.175 or 811.182. Nothing in this section prohibits the  
5       arrest or citation of a person for an offense if the officer has probable cause to believe the  
6       person has committed the offense.

7       **SECTION 4.** (1) Upon receipt of a report from a police officer of action taken under sec-  
8       tion 2 of this 2009 Act, the Department of Transportation shall:

9       (a) Determine from the department's records whether the driving privileges of the driver  
10      were suspended or revoked for violation of ORS 811.175 or 811.182 at the time of the arrest  
11      or citation under section 2 of this 2009 Act; and

12      (b) Determine whether the driver was a registered owner of the vehicle that the driver  
13      was driving at the time of the arrest or citation under section 2 of this 2009 Act.

14      (2) If both conditions of subsection (1) of this section are met, the department shall  
15      cancel the registration of the vehicle. Cancellation shall take effect 60 days after an arrest  
16      is made or a citation is issued under section 2 of this 2009 Act. Cancellation shall remain in  
17      effect until the driving privileges of the driver have been restored and the driver submits a  
18      valid application and pays all required fees for registration of the vehicle, including the res-  
19      toration fee under section 10 of this 2009 Act, or until another person who is qualified to do  
20      so registers the vehicle.

21      (3) Cancellation of registration under subsection (2) of this section does not affect the  
22      right of any person to transfer or acquire title to, or any interest in, the vehicle or the right  
23      of any other person to become the registered owner of the vehicle.

24      (4) If the records of the department show that the driving privileges of the driver were  
25      suspended or revoked for violation of ORS 811.175 or 811.182 but the driver was not a regis-  
26      tered owner of the vehicle at the time the registration plates were marked under section 2  
27      of this 2009 Act, the department shall promptly notify the registered owner by first class  
28      mail at the address shown on the records of the department of the action taken under sec-  
29      tion 2 of this 2009 Act. The department may not cancel the registration of a vehicle if the  
30      driver who was arrested or issued a citation under section 2 of this 2009 Act was not a reg-  
31      istered owner of the vehicle at the time of the arrest or citation. Upon the registered owner's  
32      payment of the replacement sticker fee and the restoration fee required under section 10 of  
33      this 2009 Act, if applicable, the department shall issue replacement stickers and shall either  
34      return the confiscated registration card to the registered owner notified under this sub-  
35      section or issue a new card without cost to the owner. The replacement stickers may be used  
36      by the registered owner to replace the special stickers placed on the registration plates un-  
37      der section 2 of this 2009 Act.

38      (5) If the records of the department show that the driving privileges of the driver were  
39      not suspended or revoked for violation of ORS 811.175 or 811.182, the department shall notify  
40      the registered owner of the vehicle that the registration will not be canceled and shall issue  
41      replacement stickers at no cost to the registered owner. The stickers and the confiscated  
42      registration card, or a new registration card if the department determines that issuing a new  
43      card is more convenient, shall be provided to the registered owner as soon as possible after  
44      the determination is made under this subsection.

45      (6) If the driver of a vehicle that had registration plates marked under section 2 of this

1 2009 Act produces a driver license, driver permit or other evidence of a grant of driving  
2 privileges that is valid at the time it is produced, the department may not cancel the regis-  
3 tration of the vehicle and, upon the registered owner's payment of the replacement sticker  
4 fee and the restoration fee required under section 10 of this 2009 Act, the department shall  
5 issue replacement stickers for the vehicle and shall either return the confiscated registration  
6 card or issue a new registration card at no cost to the owner of the vehicle.

7 (7) Nothing in this section requires the department to issue a registration card or stick-  
8 ers for a vehicle if registration for that vehicle has expired.

9 **SECTION 5.** (1) Notice given by a police officer under section 2 of this 2009 Act shall:

10 (a) Specify the grounds for cancellation of the registration;

11 (b) Inform the person that the registration will not be canceled if the person has a valid  
12 driver license or driver permit;

13 (c) Inform the person of the procedure for obtaining replacement stickers and a regis-  
14 tration card; and

15 (d) Inform the person that the person is entitled to a hearing if a written request is made  
16 to the Department of Transportation within 15 days of the date the arrest is made or the  
17 citation is issued.

18 (2) If a written request for a hearing is not received by the department within 15 days  
19 of notification under section 2 of this 2009 Act, any cancellation of the registration by the  
20 department authorized by section 4 of this 2009 Act shall become effective as provided in  
21 section 4 of this 2009 Act.

22 (3) If a written request for a hearing is received by the department within 15 days of  
23 notification under section 2 of this 2009 Act, the department shall hold a hearing under sec-  
24 tion 6 of this 2009 Act.

25 **SECTION 6.** A hearing on cancellation of registration as described in section 4 of this  
26 2009 Act is subject to all of the following:

27 (1) The hearing shall be before an administrative law judge assigned from the Office of  
28 Administrative Hearings established under ORS 183.605.

29 (2) The determination by the administrative law judge at the hearing under this section  
30 is a final order.

31 (3) Unless there is an agreement between the person and the Department of Transpor-  
32 tation that the hearing be conducted elsewhere, the hearing shall be held either in the county  
33 where the alleged offense occurred or at any place within 100 miles of the place where the  
34 alleged offense occurred, as established by the department by rule.

35 (4) The person who requested the hearing shall be notified of the time and place of the  
36 hearing at least 20 days prior to the scheduled date.

37 (5) A person who requests a hearing as provided in section 5 of this 2009 Act and who  
38 fails, without just cause, to appear in person or through an attorney waives the right to a  
39 hearing. If the person waives the right to a hearing under this subsection, the department  
40 is not required to make any showing at the hearing.

41 (6) Except as provided in subsection (10) of this section, the department shall hold the  
42 hearing and the administrative law judge shall issue a final order within 60 days of the date  
43 of the arrest made or citation issued under section 2 of this 2009 Act.

44 (7) An authorized representative of the department may administer oaths and shall issue  
45 subpoenas for the attendance of witnesses at the hearing, as requested by the person or the

1 department, and for the production of relevant documents.

2 (8) The hearing shall be recorded in a manner determined by the department by rule and  
3 the record shall include any testimony and exhibits submitted. The record of the proceedings  
4 may not be transcribed unless requested by a party to the proceeding. Hearing transcripts  
5 shall be provided to requesting parties at cost.

6 (9) The scope of the hearing shall be limited to the determination of whether the can-  
7 cellation of registration is valid as described in this subsection. A cancellation is valid if:

8 (a) The driving privileges of the driver of the vehicle were suspended or revoked at the  
9 time the registration plates were marked under section 2 of this 2009 Act and the driver of  
10 the vehicle did not produce a driver license, driver permit or other evidence of a grant of  
11 driving privileges as described in section 4 (6) of this 2009 Act;

12 (b) The driver of the vehicle was a registered owner of the vehicle at the time the reg-  
13 istration plates were marked and is a registered owner of the vehicle at the time of the  
14 hearing; and

15 (c) The driver of the vehicle was provided notice that met the requirements of section 2  
16 (4) of this 2009 Act.

17 (10) If the department is unable to provide a hearing within the time required by sub-  
18 section (6) of this section, the department may postpone the hearing for up to 60 additional  
19 days. The department shall determine by rule what constitutes inability to provide a hearing  
20 within the time required by subsection (6) of this section. If a hearing is postponed under this  
21 subsection, the department shall extend the temporary registration issued under section 2  
22 of this 2009 Act for an additional 60 days.

23 (11) The department may not require the police officer who took action under section 2  
24 of this 2009 Act to be present at any hearing held under this section. Nothing in this sub-  
25 section prohibits the department from issuing a subpoena to the police officer on behalf of  
26 the person who requested the hearing.

27 **SECTION 7.** (1) Unless a person fails, without just cause, to appear in person or through  
28 an attorney at a hearing under section 6 of this 2009 Act after having requested the hearing,  
29 the person requesting the hearing shall have the right to appeal any final order of the De-  
30 partment of Transportation after the hearing by filing a petition in the circuit court for the  
31 county where the person resides or, if the person does not reside in Oregon, in the circuit  
32 court of the county where the arrest or citation took place within 30 days after issuance of  
33 the final order of the department. Appeal shall be as provided in section 8 of this 2009 Act.

34 (2) A final order issued under section 6 of this 2009 Act shall remain in effect pending  
35 any appeal or remand of the order and there shall be no stay of the cancellation pending  
36 appeal or remand.

37 **SECTION 8.** (1) The petition to the circuit court appealing a final order of the Depart-  
38 ment of Transportation after a hearing under section 6 of this 2009 Act shall state the nature  
39 of the petitioner's interest and the grounds upon which the petitioner contends the order  
40 should be reversed or remanded.

41 (2) The court shall conduct the review without a jury. Review shall be limited to the re-  
42 cord of the hearing held by the department.

43 (3) Any party to the proceedings before the circuit court may appeal from the judgment  
44 of the court to the Court of Appeals.

45 (4) Upon review in the circuit court or Court of Appeals, the court may affirm, reverse

1 or remand the order as follows:

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

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

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

7 (b) The court shall remand the order to the department if the court finds exercise of  
8 discretion by the department to be:

9 (A) Outside the range of discretion delegated to the agency by law;

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

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

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

15 (5) Upon review, the court shall affirm the order of the department unless the court finds  
16 a ground for setting aside, modifying or remanding the order to the department under a  
17 specified provision of this section.

18 **SECTION 9.** (1) A person commits the offense of removal of special stickers if the person  
19 removes special stickers affixed to the registration plates of a vehicle under section 2 of this  
20 2009 Act before the Department of Transportation has issued replacement stickers for the  
21 vehicle.

22 (2) The offense described in this section, removal of special stickers, is a Class C traffic  
23 violation.

24 **SECTION 10.** (1) If the registered owner of a vehicle is required to pay for replacement  
25 registration cards or replacement stickers or if the driver reregisters a vehicle under the  
26 provisions of section 4 of this 2009 Act, the Department of Transportation shall charge a  
27 restoration fee in addition to any other fee charged for the transaction.

28 (2) The restoration fee charged under this section shall be an amount to be determined  
29 by the department by rule, not to exceed \$5. The restoration fee is designed to recover de-  
30 partment costs of the special stickers used to mark vehicles and temporary registration  
31 cards issued under section 2 of this 2009 Act.

32 **SECTION 11.** Nothing in section 2 of this 2009 Act authorizes the placement of special  
33 stickers on vehicles with out-of-state registration plates.

34 **SECTION 12.** (1) A registered owner of a motor vehicle commits the offense of knowingly  
35 furnishing a motor vehicle to a person who is not authorized to drive if the owner rents,  
36 leases, lends or otherwise furnishes a motor vehicle to a person the owner knows, or has  
37 reason to know, does not have a valid driver license or driver permit and the owner consents  
38 to the operation of the vehicle by the person.

39 (2) The offense described in this section, knowingly furnishing a motor vehicle to a per-  
40 son who is not authorized to drive, is a Class A traffic violation.

41 **SECTION 13.** ORS 807.010 is amended to read:

42 807.010. (1) A person commits the offense of vehicle operating without driving privileges if the  
43 person operates a motor vehicle upon a highway or premises open to the public in this state and the  
44 person does not have an appropriate grant of driving privileges from this state in the form of a li-  
45 cense, driver permit, endorsement or statutory grant of driving privileges allowing the person to

1 engage in the particular type of operation.

2 (2) A person to whom a license or driver permit is issued commits the offense of violating license  
 3 restrictions if the person operates a motor vehicle in any manner that violates restrictions that are  
 4 placed upon the person’s driving privileges by the Department of Transportation under ORS 807.120  
 5 or 807.122, by a court under ORS 809.210 or 809.270, or by the vehicle code.

6 (3) Nothing in this section is applicable to a person who is driving while suspended or revoked  
 7 in violation of ORS 811.175 or 811.182. Persons who violate ORS 811.175 or 811.182 are subject to  
 8 the provisions and penalties provided therein and are not subject to the penalties and provisions of  
 9 this section.

10 (4) The offense described in subsection (1) of this section, vehicle operating without driving  
 11 privileges, is **punishable as follows:**

12 (a) **For the first offense, as a Class B traffic violation;**

13 (b) **For the second offense, as a Class A misdemeanor; and**

14 (c) **For the third offense and subsequent offenses, as a Class A misdemeanor and the**  
 15 **court shall impose a sentence requiring the person to serve at least 10 days’ imprisonment,**  
 16 **which shall be served consecutively. The court may not suspend execution of a sentence**  
 17 **unless justice requires otherwise.**

18 (5) The offense described in subsection (2) of this section, operating in violation of license re-  
 19 strictions, is a Class B traffic violation.

20 **SECTION 14.** ORS 811.175 is amended to read:

21 811.175. (1) A person commits the offense of [*violation*] driving while suspended or revoked if the  
 22 person does any of the following:

23 (a) Drives a motor vehicle upon a highway during a period when the person’s driving privileges  
 24 or right to apply for driving privileges have been suspended or revoked in this state by a court or  
 25 by the Department of Transportation.

26 (b) Drives a motor vehicle outside the limitations of a probationary permit issued under ORS  
 27 807.270 or a hardship driver permit issued under ORS 807.240, including any limitations placed on  
 28 the permit under ORS 813.510.

29 (c) Drives a commercial motor vehicle upon a highway during a period when the person’s com-  
 30 mercial driver license has been suspended, regardless of whether or not the person has other driving  
 31 privileges granted by this state.

32 (2) Affirmative defenses to the offense described in this section are established under ORS  
 33 811.180.

34 (3) The offense described in this section is applicable upon any premises open to the public.

35 [(4) *The offense described in this section, violation driving while suspended or revoked, is a Class*  
 36 *A traffic violation except as otherwise provided in ORS 811.182.*]

37 (4) **Except as otherwise provided in ORS 811.182, the offense described in this section,**  
 38 **driving while suspended or revoked:**

39 (a) **Is a Class A misdemeanor; and**

40 (b) **For the second offense and subsequent offenses, is a Class A misdemeanor and the**  
 41 **court shall impose a sentence requiring the person to serve at least 10 days’ imprisonment,**  
 42 **which shall be served consecutively. The court may not suspend execution of a sentence**  
 43 **unless justice requires otherwise.**

44 **SECTION 15.** ORS 810.530 is amended to read:

45 810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense

1 described in this subsection is committed may arrest or issue a citation for the offense in the same  
 2 manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a  
 3 police officer. This subsection applies to the following offenses:

- 4 (a) Violation of maximum weight limits under ORS 818.020.
- 5 (b) Violation of posted weight limits under ORS 818.040.
- 6 (c) Violation of administratively imposed weight or size limits under ORS 818.060.
- 7 (d) Violation of maximum size limits under ORS 818.090.
- 8 (e) Exceeding maximum number of vehicles in combination under ORS 818.110.
- 9 (f) Violation of posted limits on use of road under ORS 818.130.
- 10 (g) Violation of towing safety requirements under ORS 818.160.
- 11 (h) Operating with sifting or leaking load under ORS 818.300.
- 12 (i) Dragging objects on highway under ORS 818.320.
- 13 (j) Unlawful use of devices without wheels under ORS 815.155.
- 14 (k) Unlawful use of metal objects on tires under ORS 815.160.
- 15 (L) Operation without pneumatic tires under ORS 815.170.
- 16 (m) Operation in violation of vehicle variance permit under ORS 818.340.
- 17 (n) Failure to carry and display permit under ORS 818.350.
- 18 (o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.
- 19 (p) Violation of any provision of ORS chapter 825.
- 20 (q) Operation without proper fenders or mudguards under ORS 815.185.
- 21 (r) Vehicle operating without driving privileges in violation of ORS 807.010 if the person is op-  
 22 erating a commercial motor vehicle and the person does not have a commercial driver license or  
 23 does not have an appropriate permit.
- 24 (s) [*Violation*] Driving while suspended or revoked in violation of ORS 811.175 if the person is  
 25 operating a commercial motor vehicle while the person's commercial driver license is suspended or  
 26 revoked.
- 27 (t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is  
 28 operating a motor vehicle subject to ORS chapter 825 or 826.

29 (2) A weighmaster or motor carrier enforcement officer in whose presence an offense described  
 30 in this subsection is committed by a person operating a commercial motor vehicle may issue a ci-  
 31 tation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that  
 32 an offense described in this subsection has been committed by a person operating a commercial  
 33 motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation  
 34 for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this  
 35 subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation  
 36 issued under this subsection to the operator of a commercial motor vehicle shall be considered to  
 37 have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not  
 38 the owner. This subsection applies to the following offenses, all of which are Class A traffic vio-  
 39 lations under ORS 825.990 (1):

- 40 (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.
- 41 (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service  
 42 authorized by certificate.
- 43 (c) Refusing or failing to file the annual report as required by ORS 825.320.
- 44 (d) Refusing or failing to maintain records required by the department or to produce such re-  
 45 cords for examination as required by the department.

1 (e) Failing to appear for a hearing after notice that the carrier’s certificate or permit is under  
 2 investigation.

3 (f) Filing with the department an application that is false with regard to the ownership, pos-  
 4 session or control of the equipment being used or the operation being conducted.

5 (g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS  
 6 chapter 825 or 826.

7 (h) Refusing or failing to file a deposit or bond as required under ORS 825.506.

8 (i) Failing to comply with the applicable requirements for attendance at a motor carrier educa-  
 9 tion program as required by ORS 825.402.

10 (3) A weighmaster or motor carrier enforcement officer who finds evidence that a person oper-  
 11 ating a commercial motor vehicle has committed the offense of failure to pay the appropriate reg-  
 12 istration fee under ORS 803.315 may issue a citation for the offense in the same manner as under  
 13 ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.

14 (4) The authority of a weighmaster or motor carrier enforcement officer to issue citations or  
 15 arrest under this section is subject to ORS chapter 153.

16 (5)(a) A person is a weighmaster for purposes of this section if the person is a county  
 17 weighmaster or a police officer.

18 (b) A person is a motor carrier enforcement officer under this section if the person is duly au-  
 19 thorized as a motor carrier enforcement officer by the Department of Transportation.

20 (6) A weighmaster or motor carrier enforcement officer may accept security in the same manner  
 21 as a police officer under ORS 810.440 and 810.450 and may take as security for the offenses, in ad-  
 22 dition to other security permitted under this section, the sum fixed as the base fine for the offense.

23 (7) A weighmaster or motor carrier enforcement officer may arrest a person for the offense of  
 24 failure to appear in a violation proceeding under ORS 153.992 if the violation is based upon a cita-  
 25 tion for any offense described in subsection (1) or (3) of this section except those described in sub-  
 26 section (1)(p) of this section.

27 (8) A weighmaster or motor carrier enforcement officer may exercise the same authority as a  
 28 police officer under ORS 810.490 to enforce vehicle requirements and detain vehicles. A person who  
 29 fails to comply with the authority of a weighmaster or motor carrier enforcement officer under this  
 30 subsection is subject to penalty under ORS 818.400.

31