

# House Bill 2138

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

## 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**.

Modifies definition of "commercial motor vehicle."

Requires person holding commercial driver license to maintain proof of medical qualification on file with Department of Transportation.

Authorizes department to cancel commercial driver license upon expiration of proof of medical qualification.

Modifies laws related to suspension of commercial driver licenses.

## A BILL FOR AN ACT

1  
2 Relating to transportation; creating new provisions; and amending ORS 801.208, 807.100, 809.407,  
3 809.413 and 809.415.

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

5 **SECTION 1.** ORS 801.208 is amended to read:

6 801.208. (1) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles  
7 **and vehicles** that:

8 (a) Has a gross combination weight rating or actual gross combination weight of 26,001 pounds  
9 or more, whichever is greater, inclusive of a towed unit or a combination of towed units, with a  
10 gross vehicle weight rating or actual gross vehicle weight of more than 10,000 pounds, whichever  
11 is greater;

12 (b) Has a gross vehicle weight rating or actual gross [*combination*] weight of 26,001 pounds or  
13 more, whichever is greater;

14 (c) Is designed to transport 16 or more persons, including the driver; or

15 (d) Is of any size and is used in the transportation of hazardous materials.

16 (2) Notwithstanding subsection (1) of this section, the term "commercial motor vehicle" does not  
17 include the following:

18 (a) An emergency fire vehicle being operated by firefighters as defined in ORS 652.050;

19 (b) Emergency vehicles being operated by qualified emergency service volunteers as defined in  
20 ORS 401.358;

21 (c) A motor home used to transport or house, for nonbusiness purposes, the operator or the  
22 operator's family members or personal possessions; or

23 (d) A recreational vehicle that is operated solely for personal use.

24 **SECTION 2.** ORS 807.100 is amended to read:

25 807.100. (1) A vehicle that may be operated only by the holder of a commercial driver license  
26 **or permit** may be operated only when **proof of medical qualification, in a form** [*a medical certifi-*  
27 *cate*] approved by the Department of Transportation, is in the [*licensee's*] **person's** immediate pos-  
28 session [*and has been issued within two years prior to the date of operation of the vehicle*]. The holder

**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 of a commercial driver license **or permit** who does not have **proof of medical qualification** as [a  
2 *medical certificate*] required by this section may exercise driving privileges granted by a Class C li-  
3 cense.

4 **(2) The department may not issue or renew a commercial driver license or permit and**  
5 **may cancel a commercial driver license or permit if the person does not submit to the de-**  
6 **partment, in a form approved by rule, proof of medical qualification to operate a commercial**  
7 **motor vehicle.**

8 **(3) A person is entitled to administrative review under ORS 809.440 when the department**  
9 **does not issue or renew a commercial driver license or permit under this section or cancels**  
10 **a commercial driver license or permit under this section.**

11 **(4) To the extent possible, rules adopted by the department under this section should be**  
12 **uniform with any applicable federal regulations related to commercial driver license medical**  
13 **qualifications.**

14 **SECTION 3.** ORS 809.407 is amended to read:

15 809.407. (1) The driver of a commercial motor vehicle is subject to suspension of the driver's  
16 commercial driver license upon conviction of any of the following **offenses**:

17 (a) Failure to stop for a railroad signal in violation of ORS 811.455.

18 (b) Failure to follow rail crossing procedures for high-risk vehicles in violation of ORS 811.460.

19 (c) Obstructing a rail crossing in violation of ORS 811.475.

20 (d) Failure of the operator of a commercial motor vehicle to slow down and check that tracks  
21 are clear of an approaching train in violation of ORS 811.462.

22 (2) Upon receipt of a record of conviction for an offense described in subsection (1) of this sec-  
23 tion, the Department of Transportation shall suspend the convicted person's commercial driver li-  
24 cense for the following periods of time:

25 *[(a) Sixty days, upon receipt of a first record of conviction.]*

26 *[(b) One hundred and twenty days, if commission of a second offense and the conviction for a*  
27 *separate offense occur within a three-year period.]*

28 *[(c) One year, if commission of a third or subsequent offense and two or more convictions for sep-*  
29 *arate offenses occur within a three-year period.]*

30 **(a) Sixty days if:**

31 **(A) The conviction is the person's first conviction of an offense described in subsection**  
32 **(1) of this section; or**

33 **(B) The date the person committed an offense described in subsection (1) of this section**  
34 **is not within three years of the date the person committed another offense, as described in**  
35 **subsection (1) of this section and for which there was a conviction.**

36 **(b) One hundred and twenty days if:**

37 **(A) The conviction is the person's second conviction of an offense described in subsection**  
38 **(1) of this section;**

39 **(B) The date the person committed the second offense is within three years of the date**  
40 **the person committed another offense, as described in subsection (1) of this section and for**  
41 **which there was a conviction; and**

42 **(C) The convictions arose out of separate incidents.**

43 **(c) One year if:**

44 **(A) The conviction is the person's third or subsequent conviction for an offense described**  
45 **in subsection (1) of this section;**

1       **(B) The date the person committed the latest offense is within three years of the dates**  
2 **the person committed two or more other offenses, as described in subsection (1) of this**  
3 **section and for which there were convictions; and**

4       **(C) The convictions arose out of separate incidents.**

5       (3) A person is entitled to administrative review under ORS 809.440 of a suspension under this  
6 section.

7       **SECTION 4.** ORS 809.413 is amended to read:

8       809.413. The Department of Transportation shall suspend the commercial driver license of a  
9 person when the department receives a record of conviction, notification or notice described in this  
10 section. A person is entitled to administrative review under ORS 809.440 of a suspension under this  
11 section. The department shall suspend the commercial driver license when the department receives:

12       (1) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties of a  
13 driver while operating a motor vehicle or a commercial motor vehicle. A conviction described under  
14 this subsection shall result in:

15       (a) A suspension for a period of one year if:

16       (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
17 a commercial driver license suspended as described in ORS 809.404; and

18       (B) The person was not driving a commercial motor vehicle containing a hazardous material at  
19 the time of the offense.

20       (b) A suspension for a period of three years if:

21       (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
22 a commercial driver license suspended as described in ORS 809.404; and

23       (B) The person was driving a commercial motor vehicle containing a hazardous material at the  
24 time of the offense.

25       (c) Suspension of the commercial driver license for the lifetime of the person if the person has  
26 previously been convicted of an offense described in ORS 809.404 or had a commercial driver license  
27 suspended as described in ORS 809.404.

28       (2) A record of conviction of a crime punishable as a felony involving the operation of a motor  
29 vehicle or a commercial motor vehicle, other than the felony described in subsection (3) of this  
30 section. A conviction described under this subsection shall result in:

31       (a) A suspension for a period of one year if:

32       (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
33 a commercial driver license suspended as described in ORS 809.404; and

34       (B) The person was not driving a commercial motor vehicle containing a hazardous material at  
35 the time of the offense.

36       (b) A suspension for a period of three years if:

37       (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
38 a commercial driver license suspended as described in ORS 809.404; and

39       (B) The person was driving a commercial motor vehicle containing a hazardous material at the  
40 time of the offense.

41       (c) Suspension of the commercial driver license for the lifetime of the person if the person has  
42 previously been convicted of an offense described in ORS 809.404 or had a commercial driver license  
43 suspended as described in ORS 809.404.

44       (3) A record of conviction of a crime punishable as a felony that involves the manufacturing,  
45 distributing or dispensing of a controlled substance, as defined in ORS 475.005, and in which a motor

1 vehicle or commercial motor vehicle was used. A conviction described under this subsection shall  
2 result in a lifetime suspension of the person's commercial driving license.

3 (4) A record of conviction for driving a commercial motor vehicle while, as a result of prior vi-  
4 olations committed while operating a commercial motor vehicle, the commercial driver license of the  
5 driver had been suspended or revoked. A conviction described under this subsection shall result in:

6 (a) A suspension for a period of one year if:

7 (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
8 a commercial driver license suspended as described in ORS 809.404; and

9 (B) The person was not driving a commercial motor vehicle containing a hazardous material at  
10 the time of the offense.

11 (b) A suspension for a period of three years if:

12 (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
13 a commercial driver license suspended as described in ORS 809.404; and

14 (B) The person was driving a commercial motor vehicle containing a hazardous material at the  
15 time of the offense.

16 (c) Suspension of the commercial driver license for the lifetime of the person if the person has  
17 previously been convicted of an offense described in ORS 809.404 or had a commercial driver license  
18 suspended as described in ORS 809.404.

19 (5) A record of conviction of any degree of murder, manslaughter or criminally negligent  
20 homicide resulting from the operation of a commercial motor vehicle or assault in the first degree  
21 resulting from the operation of a commercial motor vehicle or aggravated vehicular homicide or  
22 aggravated driving while suspended or revoked. A conviction described under this section shall re-  
23 sult in:

24 (a) A suspension for a period of one year if:

25 (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
26 a commercial driver license suspended as described in ORS 809.404; and

27 (B) The person was not driving a commercial motor vehicle containing a hazardous material at  
28 the time of the offense.

29 (b) A suspension for a period of three years if:

30 (A) The person has not previously been convicted of an offense described in ORS 809.404 or had  
31 a commercial driver license suspended as described in ORS 809.404; and

32 (B) The person was driving a commercial motor vehicle containing a hazardous material at the  
33 time of the offense.

34 (c) Suspension of the commercial driver license for the lifetime of the person if the person has  
35 previously been convicted of an offense described in ORS 809.404 or had a commercial driver license  
36 suspended as described in ORS 809.404.

37 (6) A record of conviction of a serious traffic violation if the [*conviction*] **date the person**  
38 **committed the violation** occurred within three years of **the date the person committed another**  
39 [*a previous conviction for a*] serious traffic violation **for which there is a record of conviction** and  
40 if the [*convictions*] **violations** arose out of separate incidents. A suspension under this subsection  
41 shall be:

42 (a) For a period of 60 days if the conviction is the person's second conviction for a serious  
43 traffic violation **and the person committed both serious traffic violations** within [*the*] a three-  
44 year period.

45 (b) For a period of 120 days if the conviction is the person's third or subsequent conviction for

1 a serious traffic violation **and the person committed three or more serious traffic violations**  
2 within [the] a three-year period. A suspension imposed under this paragraph shall be consecutive to  
3 any other suspension imposed for a serious traffic violation.

4 (7) Notification that a person violated an out-of-service order issued under ORS 813.050 or has  
5 violated any other out-of-service order or notice. Notification under this subsection may include, but  
6 not be limited to, a record of conviction and a record of a determination by a state or federal agency  
7 with jurisdiction to make a determination that the person has violated an out-of-service order or  
8 notice. A suspension under this subsection shall be:

9 (a) Except as provided in paragraph (b) of this subsection, for a period of 180 days if the no-  
10 tification relates to the person's first violation of an out-of-service order or notice.

11 (b) For a period of one year if the notification relates to the person's first violation of an out-  
12 of-service order or notice and the person committed the violation while transporting hazardous ma-  
13 terials required to be placarded or while operating a motor vehicle designed to transport 16 or more  
14 persons, including the driver.

15 (c) Except as provided in paragraph (d) of this subsection, for a period of three years if the no-  
16 tification relates to a second or subsequent violation of an out-of-service notice or order that oc-  
17 curred within a 10-year period.

18 (d) For a period of five years if the notification relates to a second or subsequent violation of  
19 an out-of-service notice or order that occurred within a 10-year period and the person committed the  
20 violation while transporting hazardous materials required to be placarded or was operating a motor  
21 vehicle designed to transport 16 or more persons, including the driver, regardless of the load or kind  
22 of vehicle involved in the prior violation.

23 (8) Notification from the Federal Motor Carrier Safety Administration that a person in this state  
24 who holds a commercial driver license in this state has been disqualified from operating a commer-  
25 cial motor vehicle and that the disqualification is due to a determination that the driving of that  
26 person constitutes an imminent hazard. A suspension under this subsection shall be made imme-  
27 diately and for the period prescribed by the Federal Motor Carrier Safety Administration, except  
28 that:

29 (a) Notwithstanding any disqualification hearings conducted by the Federal Motor Carrier  
30 Safety Administration, a suspension under this subsection is subject to a post-imposition hearing  
31 under ORS 809.440.

32 (b) Notwithstanding the period of suspension prescribed by the Federal Motor Carrier Safety  
33 Administration, a suspension under this subsection may not exceed one year.

34 (9) Notification from another jurisdiction that the person failed to appear on a citation for a  
35 traffic offense or for a violation in the other jurisdiction that, if committed in this state, would be  
36 grounds for suspension under ORS 809.220, and the person held a commercial driver license or was  
37 operating a commercial motor vehicle at the time of the offense. A suspension under this subsection:

38 (a) Shall end upon the earliest of 10 years from the date of suspension or upon notification by  
39 the other jurisdiction that the person appeared.

40 (b) Shall be placed on the person's driving record regardless of whether another jurisdiction  
41 places the suspension on the person's driving record.

42 (c) May not be for a person's failure to appear on a parking, pedestrian or bicyclist offense.

43 (10) Notification from another jurisdiction that the person failed to pay a fine or obey an order  
44 of the court on a citation for a traffic offense or for a violation in the other jurisdiction that, if  
45 committed in this state, would be grounds for suspension under ORS 809.415 (4), and the person held

1 a commercial driver license or was operating a commercial motor vehicle at the time of the offense.

2 A suspension under this subsection:

3 (a) Shall end upon the earliest of 10 years from the date of suspension or upon notification by  
4 the other jurisdiction that the person paid the fine or obeyed the order of the court.

5 (b) Shall be placed on the person's driving record regardless of whether another jurisdiction  
6 places the suspension on the person's driving record.

7 (c) May not be for a person's failure to pay a fine or obey an order of the court on a parking,  
8 pedestrian or bicyclist offense.

9 (11) Notice of a conviction in another jurisdiction of an offense that, if committed in this state,  
10 would be grounds for the suspension of the person's commercial driver license. The period of sus-  
11 pension under this subsection shall be the same as would be imposed on the person if the conviction  
12 were for an offense committed in this state. As used in this subsection, "conviction" means an un-  
13 vacated adjudication of guilt, a determination that a person has violated or failed to comply with  
14 the law in a court of original jurisdiction or authorized administrative tribunal, an unvacated  
15 forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty  
16 or nolo contendere accepted by the court, the payment of a fine or court cost or the violation of a  
17 condition of release without bail, regardless of whether or not the penalty is rebated, suspended or  
18 probated.

19 (12) Notification from another jurisdiction that a person who is a resident of this state and who  
20 holds a commercial driver license has had commercial driving privileges suspended or revoked in  
21 another jurisdiction for reasons that would be grounds for suspension of the person's commercial  
22 driver license in this state. The period of suspension under this subsection shall be the same as  
23 would be imposed on the person if the violation were committed in this state.

24 **SECTION 5.** ORS 809.415 is amended to read:

25 809.415. (1)(a) The Department of Transportation shall suspend the driving privileges of a person  
26 who has a judgment of the type described under ORS 806.040 rendered against the person if the  
27 person does not settle the judgment in the manner described under ORS 809.470 within 60 days after  
28 its entry.

29 (b) A suspension under this subsection shall continue until the person does one of the following:

30 (A) Settles the judgment in the manner described in ORS 809.470.

31 (B) Has an insurer that has been found by the department to be obligated to pay the judgment,  
32 provided that there has been no final adjudication by a court that the insurer has no such obli-  
33 gation.

34 (C) Gives evidence to the department that a period of seven years has elapsed since the entry  
35 of the judgment.

36 (D) Receives from the court that rendered the judgment an order permitting the payment of the  
37 judgment in installments.

38 (c) A person is entitled to administrative review under ORS 809.440 of a suspension under this  
39 subsection.

40 (2)(a) The department shall suspend the driving privileges of a person who falsely certifies the  
41 existence of a motor vehicle liability insurance policy or the existence of some other means of sat-  
42 isfying financial responsibility requirements or of a person who, after certifying the existence of a  
43 motor vehicle liability insurance policy or other means of satisfying the requirements, allows the  
44 policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsi-  
45 bility requirements.

1 (b) Notwithstanding paragraph (a) of this subsection, the department may suspend under this  
 2 subsection only if proof of compliance with financial responsibility requirements as of the date of  
 3 the letter of verification from the department under ORS 806.150 is not submitted within 30 days  
 4 after the date of the mailing of the department's demand under ORS 806.160.

5 (c) A suspension under this subsection shall continue until the person complies with future re-  
 6 sponsibility filings.

7 (3)(a) The department shall suspend the driving privileges of a person who fails to comply with  
 8 future responsibility filings whenever required under the vehicle code or fails to provide new proof  
 9 for future responsibility filings when requested by the department.

10 (b) A suspension under this subsection shall continue until the person complies with future re-  
 11 sponsibility filings.

12 (c) A person whose initial obligation to make future responsibility filings is not based upon a  
 13 conviction or other action by a court is entitled to a hearing under ORS 809.440 prior to a suspen-  
 14 sion under this subsection. A person whose obligation to make future responsibility filings is based  
 15 upon a conviction or other action by a court is entitled to administrative review under ORS 809.440  
 16 of a suspension under this subsection. A person whose suspension under this subsection is based on  
 17 lapses in filing after the initial filing has been made is entitled to administrative review under ORS  
 18 809.440.

19 (4)(a) The department shall suspend driving privileges when provided under ORS 809.416. The  
 20 suspension shall continue until the earlier of the following:

21 (A) The person establishes to the satisfaction of the department that the person has performed  
 22 all acts necessary under ORS 809.416 to make the person not subject to suspension.

23 (B) Ten years from the date the suspension is imposed if the suspension is imposed for a reason  
 24 described in ORS 809.416 (1) or (2) or five years from the date the suspension is imposed if the  
 25 suspension is imposed for the reason described in ORS 809.416 (3).

26 (b) A person is entitled to administrative review under ORS 809.440 of a suspension under this  
 27 subsection.

28 (5) Upon determination by the department that a person has committed an act that constitutes  
 29 an offense described in ORS 809.310, the department may suspend any driving privileges or any  
 30 identification card of the person determined to have committed the act. A suspension under this  
 31 subsection shall continue for a period of one year.

32 **(6) Upon determination by the department that a person has submitted false information**  
 33 **to the department for the purpose of establishing or maintaining qualification to operate a**  
 34 **commercial motor vehicle or hold a commercial driver license, the department may suspend**  
 35 **the commercial driver license or the person's right to apply for a commercial driver license.**  
 36 **A suspension under this subsection shall continue for a period of one year.**

37 **SECTION 6. (1) The amendments to ORS 807.100 by section 2 of this 2011 Act apply to**  
 38 **commercial driver licenses and permits issued or renewed on or after January 30, 2012.**

39 **(2) The amendments to ORS 809.407 and 809.413 by sections 3 and 4 of this 2011 Act apply**  
 40 **to offenses that occur on or after the effective date of this 2011 Act.**