

# House Bill 3504

Sponsored by Representative BARNHART; Representative TOMEI

## 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**.

Authorizes civil forfeiture of motor vehicle if person is convicted of offense relating to driving while suspended or revoked.

Increases penalty for second or subsequent conviction of driving while suspended or revoked. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to driving while suspended; creating new provisions; and amending ORS 810.530 and  
3 811.175.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of the Oregon Vehicle**  
6 **Code.**

7 **SECTION 2. (1) A motor vehicle may be seized and forfeited if the person operating the**  
8 **vehicle is arrested or issued a citation for driving while suspended or revoked under ORS**  
9 **811.175 (5), criminal driving while suspended or revoked under ORS 811.182 or aggravated**  
10 **driving while suspended or revoked under ORS 163.196 and the person, within three years**  
11 **prior to the arrest or issuance of the citation, has been convicted of:**

12 (a) **Driving while suspended or revoked under ORS 811.175;**

13 (b) **Criminal driving while suspended or revoked under ORS 811.182; or**

14 (c) **Aggravated driving while suspended or revoked under ORS 163.196.**

15 (2) **All seizure and forfeiture proceedings under this section shall be conducted in ac-**  
16 **cordance with ORS chapter 131A.**

17 **SECTION 3. ORS 811.175 is amended to read:**

18 811.175. (1) A person commits the offense of [*violation*] driving while suspended or revoked if the  
19 person does any of the following:

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

23 (b) Drives a motor vehicle outside the limitations of a probationary permit issued under ORS  
24 807.270 or a hardship driver permit issued under ORS 807.240, including any limitations placed on  
25 the permit under ORS 813.510.

26 (c) Drives a commercial motor vehicle upon a highway during a period when the person's driving  
27 privileges or commercial driving privileges have been suspended or revoked in this state or any  
28 other jurisdiction.

29 (2) Affirmative defenses to the offense described in this section are established under ORS  
30 811.180.

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

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

4 **(5) Notwithstanding subsection (4) of this section, a second or subsequent violation of**  
5 **this section by a person is a Class C misdemeanor.**

6 **SECTION 4.** ORS 810.530 is amended to read:

7 810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense  
8 described in this subsection is committed may arrest or issue a citation for the offense in the same  
9 manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a  
10 police officer. This subsection applies to the following offenses:

11 (a) Violation of maximum weight limits under ORS 818.020.

12 (b) Violation of posted weight limits under ORS 818.040.

13 (c) Violation of administratively imposed weight or size limits under ORS 818.060.

14 (d) Violation of maximum size limits under ORS 818.090.

15 (e) Exceeding maximum number of vehicles in combination under ORS 818.110.

16 (f) Violation of posted limits on use of road under ORS 818.130.

17 (g) Violation of towing safety requirements under ORS 818.160.

18 (h) Operating with sifting or leaking load under ORS 818.300.

19 (i) Dragging objects on highway under ORS 818.320.

20 (j) Unlawful use of devices without wheels under ORS 815.155.

21 (k) Unlawful use of metal objects on tires under ORS 815.160.

22 (L) Operation without pneumatic tires under ORS 815.170.

23 (m) Operation in violation of vehicle variance permit under ORS 818.340.

24 (n) Failure to carry and display permit under ORS 818.350.

25 (o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

26 (p) Violation of any provision of ORS chapter 825.

27 (q) Operation without proper fenders or mudguards under ORS 815.185.

28 (r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is  
29 operating a commercial motor vehicle and the person does not have a commercial driver license or  
30 does not have an appropriate permit.

31 (s) [Violation] Driving while suspended or revoked in violation of ORS 811.175 if the person is  
32 operating a commercial motor vehicle while the person's commercial driver license is suspended or  
33 revoked.

34 (t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is  
35 operating a motor vehicle subject to ORS chapter 825 or 826.

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

1 citations under ORS 825.990 (1):

2 (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.

3 (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service  
4 authorized by certificate.

5 (c) Refusing or failing to file the annual report as required by ORS 825.320.

6 (d) Refusing or failing to maintain records required by the department or to produce such re-  
7 cords for examination as required by the department.

8 (e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under  
9 investigation.

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

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

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

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

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

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

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

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

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

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

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

38 **SECTION 5. Section 2 of this 2011 Act and the amendments to ORS 810.530 and 811.175**  
39 **by sections 3 and 4 of this 2011 Act apply to offenses that occur on or after the effective date**  
40 **of this 2011 Act.**