

**Enrolled**  
**Senate Bill 415**

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CHAPTER .....

AN ACT

Relating to traffic violations; creating new provisions; and amending ORS 153.061 and 811.135.

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

**SECTION 1.** ORS 811.135 is amended to read:

811.135. (1) A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.

(2) The offense described in this section, careless driving, applies on any premises open to the public and is a Class B traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic violation.

(3) In addition to any other penalty imposed for an offense committed under this section, if the court determines that the commission of the offense described in this section contributed to the serious physical injury or death of a vulnerable user of a public way, the court shall:

(a) Impose a sentence that requires the person to:

(A) Complete a traffic safety course; and

(B) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129. The community service must include activities related to driver improvement and providing public education on traffic safety;

(b) Impose, but suspend on the condition that the person complete the requirements of paragraph (a) of this subsection:

(A) A fine of up to \$12,500, notwithstanding ORS 153.018; and

(B) A suspension of driving privileges as provided in ORS 809.280; and

(c) Set a hearing date up to one year from the date of sentencing.

(4) At the hearing described in subsection (3)(c) of this section, the court shall:

(a) If the person has successfully completed the requirements described in subsection (3)(a) of this section, dismiss the penalties imposed under subsection (3)(b) of this section; or

(b) If the person has not successfully completed the requirements described in subsection (3)(a) of this section:

(A) Grant the person an extension based on good cause shown; or

(B) Impose the penalties under subsection (3)(b) of this section.

(5) When a court imposes a suspension under subsection (4) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of

the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.

(6) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense **appears to have** contributed to the serious physical injury or death of a vulnerable user of a public way.

**SECTION 2.** ORS 153.061 is amended to read:

153.061. (1) Except as provided in subsection (2) of this section, a defendant who has been issued a violation citation must either:

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

(b) Make a first appearance in the manner provided in subsection (3) of this section before the time indicated in the summons.

(2) If a defendant has been issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that [*a vulnerable user of a public way suffered serious physical injury or death*] **the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way**, the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

(3) A defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

(a) The defendant may submit to the court a written or oral request for a trial.

(b) The defendant may enter a plea of no contest by delivering to the court the summons, a check or money order in the amount of the base fine set forth in the summons, and a statement of matters in explanation or mitigation of the violation charged. The delivery of a statement of matters in explanation or mitigation under the provisions of this paragraph constitutes a waiver of trial and consent to the entry of a judgment forfeiting the base fine based on the statement and any other testimony or written statements that may be presented to the court by the citing officer or other witnesses.

(c) The defendant may execute the appearance, waiver of trial and plea of guilty that appears on the summons and deliver the summons and a check or money order in the amount of the base fine set forth in the summons to the court. The defendant may attach a statement of matters in explanation or mitigation of the violation.

(4) The court may require that a defendant requesting a trial under subsection (3)(a) of this section deposit the base fine specified under ORS 153.125 to 153.145 or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount specified by the court, the defendant must personally appear in court at the time indicated in the summons. The amount deposited by the defendant may be applied against any fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

(5) If the defendant personally appears in court at the time indicated in the summons and enters a plea of guilty, the judge shall consider any statement in explanation or mitigation made by the defendant.

(6) The court may require a defendant to appear personally in any case, or may require that all defendants appear in specified categories of cases.

(7) If a defendant has entered a no contest plea or guilty plea in the manner provided in subsection (3)(b) or (c) of this section, and the court determines that the base fine amount is not adequate by reason of previous convictions of the defendant, the nature of the offense charged or other circumstances, the court may require that a trial be held unless an additional fine amount is paid by the defendant before a specified date. Notice of an additional fine amount under this subsection may be given to the defendant by mail. In no event may the court require a total fine amount in excess of the maximum fine established for the violation by statute.

(8) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails

to appear at any other subsequent time set for trial or other appearance, the driving privileges of the defendant are subject to suspension under ORS 809.220.

**SECTION 3. The amendments to ORS 153.061 and 811.135 by sections 1 and 2 of this 2011 Act apply to offenses that occur on or after the effective date of this 2011 Act.**

**Passed by Senate May 5, 2011**

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House June 7, 2011**

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

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Kate Brown, Secretary of State