

# Senate Bill 647

Sponsored by Senator GIROD

## 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**.

Increases penalty for driving while suspended or revoked. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both for first offense, six months' imprisonment, \$125,000 fine, or both for second offense and five years' imprisonment, \$125,000 fine, or both for third or subsequent offense.

## A BILL FOR AN ACT

1  
2 Relating to driving while suspended or revoked; creating new provisions; and amending ORS 809.700,  
3 810.530 and 811.175.

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

5 **SECTION 1.** ORS 811.175 is amended to read:

6 811.175. (1) A person commits the offense of [*violation*] driving while suspended or revoked if the  
7 person does any of the following:

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

11 (b) Drives a motor vehicle outside the limitations of a probationary permit issued under ORS  
12 807.270 or a hardship driver permit issued under ORS 807.240, including any limitations placed on  
13 the permit under ORS 813.510.

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

17 (2) Affirmative defenses to the offense described in this section are established under ORS  
18 811.180.

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

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

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

24 **(a) Upon the first conviction, a Class B misdemeanor. The court must impose and not**  
25 **suspend execution of a sentence requiring the person to serve at least six days'**  
26 **imprisonment but not more than six months' imprisonment, which shall be served consec-**  
27 **utively unless justice requires otherwise.**

28 **(b) Upon the second conviction, a Class C felony. The court must impose and not suspend**  
29 **execution of a sentence requiring the person to serve at least six months' imprisonment but**  
30 **not more than two years' imprisonment, which shall be served consecutively unless justice**

**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 **requires otherwise.**

2 **(c) Upon the third or subsequent conviction, a Class C felony. The court must impose and**  
 3 **not suspend execution of a sentence requiring the person to serve at least two years'**  
 4 **imprisonment but not more than five years' imprisonment, which shall be served consec-**  
 5 **utively unless justice requires otherwise.**

6 **SECTION 2.** ORS 809.700 is amended to read:

7 809.700. A court may order a motor vehicle impounded or immobilized upon conviction for the  
 8 traffic offenses described in this section. The authority to impound or immobilize a vehicle under  
 9 this section is subject to all of the following:

10 (1) The court may order a vehicle impounded or immobilized under this section when a person  
 11 is convicted:

12 (a) For **the first time of** driving a motor vehicle while the person's license is suspended or re-  
 13 voked in violation of ORS 811.175 or 811.182; or

14 (b) On a second or subsequent charge of driving while under the influence of intoxicants in vi-  
 15 olation of ORS 813.010.

16 **(2) The court shall order a vehicle impounded or immobilized under this section when a**  
 17 **person is convicted on a second or subsequent charge of driving while suspended or revoked**  
 18 **in violation of ORS 811.175 or 811.182.**

19 [(2)] **(3)** A vehicle may be impounded or immobilized under this section for not more than one  
 20 year from judgment.

21 [(3)] **(4)** The following vehicles may be impounded under this section:

22 (a) Any motor vehicle of which the convicted person is the owner.

23 (b) Any motor vehicle which the convicted person is operating at the time of arrest.

24 [(4)] **(5)** A vehicle may be immobilized under this section if the vehicle is registered in this state  
 25 and is a vehicle that may be impounded under subsection [(3)] **(4)** of this section.

26 [(5)(a)] **(6)(a)** If a vehicle is ordered to be immobilized under this section and if the convicted  
 27 person resides in the jurisdiction of the law enforcement agency that arrested the person for the  
 28 offense described in subsection (1) of this section, the arresting law enforcement agency shall install  
 29 a vehicle immobilization device on the vehicle. If the convicted person does not reside in the juris-  
 30 diction of the law enforcement agency that arrested the person, the sheriff of the county in which  
 31 the person resides shall install the device.

32 (b) A vehicle ordered immobilized under this section shall be immobilized at the residence of the  
 33 owner of the vehicle or at the location where the owner regularly parks the vehicle.

34 (c) A vehicle ordered immobilized under this section may be immobilized only in a location at  
 35 which the vehicle may be legally stored for the period of the immobilization order. If no location is  
 36 available at which the vehicle may be legally stored, the vehicle may be impounded for the period  
 37 of the immobilization order.

38 (d) A vehicle owner who fails to allow installation of a vehicle immobilization device ordered  
 39 under this section shall be subject to contempt of court proceedings under ORS 33.015 to 33.155.

40 [(6)(a)] **(7)(a)** If a vehicle is impounded under this section, the person convicted shall be liable  
 41 for the expenses incurred in the towing and storage of the vehicle under this section, whether or  
 42 not the vehicle is returned to the person convicted.

43 (b) If a vehicle is immobilized under this section, the person convicted shall be liable for the  
 44 expenses incurred in installation and removal of the vehicle immobilization device and for rental of  
 45 the device during the period the device is installed on the vehicle, whether or not the vehicle is

1 released to the person convicted.

2 [(7)] (8) A vehicle shall be released or returned to the person convicted or the owner only upon  
3 payment of the expenses incurred in the immobilization or towing and storage of the vehicle under  
4 this section.

5 [(8)] (9) If a vehicle is not reclaimed within 30 days after the time set for the return of the ve-  
6 hicle in an impounding order or release of the vehicle in an immobilization order, the vehicle may  
7 be disposed of in accordance with procedures under ORS 819.110 to 819.215.

8 [(9)] (10) The court may order that a motor vehicle of which the convicted person is not the  
9 owner be impounded or immobilized under this section only if the court is satisfied by a prepon-  
10 derance of the evidence that the owner knew or had good reason to know that the convicted person:

11 (a) Did not have a valid license and knowingly consented to the operation of the vehicle by the  
12 convicted person; or

13 (b) Was operating the vehicle while under the influence of intoxicants.

14 [(10)] (11) The authority to impound or immobilize a vehicle under this section is subject to the  
15 rights of a security interest holder under a security agreement executed before an arrest for vio-  
16 lation of an offense for which the vehicle may be impounded or immobilized under this section. A  
17 vehicle shall be released for the purpose of satisfying a security interest if:

18 (a) Request in writing is made to the court;

19 (b) If the vehicle has been impounded or immobilized, the security interest holder pays the ex-  
20 penses in towing and storage or in immobilization of the vehicle; and

21 (c) If the registration of the vehicle has been suspended under ORS 809.010, the security interest  
22 holder takes possession of the vehicle subject to the suspension of the registration remaining in ef-  
23 fect against the registered owner.

24 [(11)] (12) A security interest holder's obligation to pay and right to recover towing and storage  
25 or immobilization expenses under subsection [(10)] (11) of this section are limited to the recovery  
26 of those towing and storage or immobilization expenses incurred during the initial 20-day period  
27 when the vehicle was in public storage or immobilized, unless the authority taking the vehicle into  
28 custody or immobilizing the vehicle under this section has transmitted by certified mail a written  
29 notice to the holder concerning the accrual of storage or immobilization expenses. If the vehicle is  
30 in private storage, the lien claimant shall transmit the written notice.

31 **SECTION 3.** ORS 810.530 is amended to read:

32 810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense  
33 described in this subsection is committed may arrest or issue a citation for the offense in the same  
34 manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a  
35 police officer. This subsection applies to the following offenses:

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

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

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

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

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

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

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

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

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

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

- 1 (k) Unlawful use of metal objects on tires under ORS 815.160.
- 2 (L) Operation without pneumatic tires under ORS 815.170.
- 3 (m) Operation in violation of vehicle variance permit under ORS 818.340.
- 4 (n) Failure to carry and display permit under ORS 818.350.
- 5 (o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.
- 6 (p) Violation of any provision of ORS chapter 825.
- 7 (q) Operation without proper fenders or mudguards under ORS 815.185.
- 8 (r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is
- 9 operating a commercial motor vehicle and the person does not have a commercial driver license or
- 10 does not have an appropriate permit.
- 11 (s) [*Violation*] Driving while suspended or revoked in violation of ORS 811.175 if the person is
- 12 operating a commercial motor vehicle while the person's commercial driver license is suspended or
- 13 revoked.
- 14 (t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is
- 15 operating a motor vehicle subject to ORS chapter 825 or 826.
- 16 (2) A weighmaster or motor carrier enforcement officer in whose presence an offense described
- 17 in this subsection is committed by a person operating a commercial motor vehicle may issue a ci-
- 18 tation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that
- 19 an offense described in this subsection has been committed by a person operating a commercial
- 20 motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation
- 21 for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this
- 22 subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation
- 23 issued under this subsection to the operator of a commercial motor vehicle shall be considered to
- 24 have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not
- 25 the owner. This subsection applies to the following offenses, all of which are Class A traffic vio-
- 26 lations under ORS 825.990 (1):
- 27 (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.
- 28 (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service
- 29 authorized by certificate.
- 30 (c) Refusing or failing to file the annual report as required by ORS 825.320.
- 31 (d) Refusing or failing to maintain records required by the department or to produce such re-
- 32 cords for examination as required by the department.
- 33 (e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under
- 34 investigation.
- 35 (f) Filing with the department an application that is false with regard to the ownership, pos-
- 36 session or control of the equipment being used or the operation being conducted.
- 37 (g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS
- 38 chapter 825 or 826.
- 39 (h) Refusing or failing to file a deposit or bond as required under ORS 825.506.
- 40 (i) Failing to comply with the applicable requirements for attendance at a motor carrier educa-
- 41 tion program as required by ORS 825.402.
- 42 (3) A weighmaster or motor carrier enforcement officer who finds evidence that a person oper-
- 43 ating a commercial motor vehicle has committed the offense of failure to pay the appropriate reg-
- 44 istration fee under ORS 803.315 may issue a citation for the offense in the same manner as under
- 45 ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.

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

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

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

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

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

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

18 **SECTION 4. The amendments to ORS 809.700 and 811.175 by sections 1 and 2 of this 2011**  
19 **Act apply to offenses that occur on or after the effective date of this 2011 Act.**

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