

Enrolled
House Bill 2986

Sponsored by Representative DEMBROW

CHAPTER

AN ACT

Relating to driving privileges; creating new provisions; and amending ORS 807.250, 809.210, 809.415 and 809.416.

Whereas it is important that ex-offenders acquire the skills necessary for gainful employment that allows them to become productive members of society; and

Whereas a successful route to building skills and obtaining gainful employment is through apprenticeship programs; and

Whereas many apprenticeship programs require students to have a valid driver license; and

Whereas some ex-offenders have lost their driving privileges and may not have their driving privileges reinstated until the ex-offender has paid significant outstanding fines; and

Whereas ex-offenders are unable to pay their financial obligations when they are unemployed; and

Whereas ex-offenders are willing to do the hard work that is needed to be successful in an apprenticeship program and secure gainful employment; and

Whereas it is in this state's interests to allow ex-offenders the opportunity to reinstate their driving privileges contingent upon their enrollment in an apprenticeship program and to begin repaying their fines; now, therefore,

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

SECTION 1. ORS 809.210 is amended to read:

809.210. (1) A court may do any of the following if the defendant is convicted of any traffic offense and fails or refuses to pay a fine imposed by the [*judge*] **court** or to comply with any condition upon which payment of the fine or any part of it was suspended:

(a) Issue a notice **of suspension** to the Department of Transportation **that directs the department** to implement procedures under ORS 809.416.

(b) Order a defendant's driving privileges restricted.

(2) The authority granted in this section is in addition to or instead of any other method authorized by law for enforcing a court order.

(3) If a court places restrictions on driving privileges under this section:

(a) The [*judge*] **court** shall immediately advise the department of the restrictions.

(b) Upon removal of such restriction, the court shall notify the department that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The department shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If *[a judge]* **the court** issues a notice of suspension that directs the department to implement procedures under ORS 809.416 as provided under this section:

(a) The *[judge]* **court** shall immediately send to the department notice upon payment of the fine as ordered.

(b) The department shall take action on the suspension as provided under ORS 809.416.

(5)(a) **At any time after the court issues a notice of suspension under this section, the person whose driving privileges have been suspended may seek reinstatement with the court if the person is enrolled in a preapprenticeship program, as defined in ORS 660.010, or is a registered apprentice under ORS 660.020. The court shall reinstate the person's driving privileges if the person provides the court with a form that includes verification from the Bureau of Labor and Industries that the person is enrolled in a preapprenticeship program or is a registered apprentice.**

(b) **The bureau shall develop the form prescribed in paragraph (a) of this subsection. The form must include:**

(A) **The name of the person who is enrolled in a preapprenticeship program or registered as an apprentice;**

(B) **A statement from the person's program, certifying that the person is enrolled in the preapprenticeship program or is a registered apprentice;**

(C) **The date on which the person is scheduled to complete the program;**

(D) **For a person who is enrolled in a preapprenticeship program, a statement that the program will notify the bureau of the registration of the person as an apprentice under ORS 660.020 after completion of the person's preapprenticeship program or notify the bureau of the person's failure to register; and**

(E) **A statement that the program will notify the court if the person fails to complete the program or fails to register as an apprentice under ORS 660.020 after completion of a pre-apprenticeship program.**

(c) **Upon the request of a person whose driving privileges have been suspended under this section, the bureau shall seek to verify that the person is enrolled in a preapprenticeship program or is registered as an apprentice. If the bureau verifies that the person is enrolled in a preapprenticeship program or is registered as an apprentice, the bureau shall include the verification on the form described in this subsection.**

(d) **If the court receives a notice from the program that the person has failed to complete the program, or failed to register as an apprentice under ORS 660.020 after completion of a preapprenticeship program, the court shall reissue the notice of suspension and immediately notify the department of the reissuance. The reissuance does not extend the original period of suspension.**

(6) **A person whose driving privileges are reinstated under subsection (5) of this section shall establish a payment schedule with the court and begin making payments within six months after completing a preapprenticeship program and apprenticeship program, as defined in ORS 660.010, or six months after completing an apprenticeship program if the person was never enrolled in a preapprenticeship program. The court shall reissue the notice of suspension and immediately notify the department if the person does not establish a payment schedule within the time required under this subsection. The reissuance does not extend the original period of suspension.**

[(5)] (7) **A court *[shall]* may not issue a notice of suspension under this section that directs the department to implement procedures under ORS 809.416 for failure to pay a fine relating to any parking offense, pedestrian offense or bicycling offense.**

(8) **A notification by a court to the department under this section shall be in a form prescribed by the department.**

SECTION 2. ORS 809.416 is amended to read:

809.416. This section establishes circumstances that will make a person subject to suspension under ORS 809.415 (4) and what a person is required to do to make the person no longer subject to suspension. The following apply as described:

(1) A person is subject to suspension under ORS 809.415 (4) if the Department of Transportation receives notice from a court to apply this section under ORS 809.220. A person who is subject under this subsection remains subject until the person presents the department with notice issued by the court showing that the person is no longer subject to this section or until 10 years have elapsed, whichever is earlier. This subsection shall not subject a person to ORS 809.415 (4) for any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice required by this subsection.

(2) A person is subject to suspension under ORS 809.415 (4) if the department receives a notice **of suspension** from a court under ORS 809.210 **indicating** that a person has failed **or refused** to pay a fine [*or obey an order of the court*]. A person who is subject under this subsection remains subject until:

(a) The person presents the department with a notice **of reinstatement** issued by the court showing that the person:

(A) Has paid the fine; **or** [*or obeyed the order of the court*]

(B) **Has enrolled in a preapprenticeship program, as defined in ORS 660.010, or is a registered apprentice under ORS 660.020; or**

(b) [*Until 10*] **Ten** years have elapsed, whichever is earlier.

(3) [*This subsection shall*] **Subsection (2) of this section does** not subject a person to ORS 809.415 (4) for failure to pay a fine relating to any pedestrian offense, bicycling offense or parking offense. Upon receipt of a notice **of suspension** from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice **of reinstatement** required by this subsection.

(4) **A person is subject to suspension under ORS 809.415 (4) if the department receives a notice of suspension from a court under ORS 809.210 that a person has failed to obey an order of the court. A person who is subject under this subsection remains subject until the person presents the department with a notice of reinstatement issued by the court showing that the person has obeyed the order of the court or until 10 years have elapsed, whichever is earlier. Upon receipt of a notice of suspension from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice of reinstatement required by this subsection.**

[(3)] (5) A person is subject to suspension under ORS 809.415 (4) if the person pays the department any fee or tax with a bank check and the check is returned to the department as uncollectible or the person tenders payment with a credit or debit card and the issuer of the card does not pay the department. A person who is subject under this subsection remains subject until the department receives the money for the fee or tax and any fee charged by the department under ORS 802.170 or until five years have elapsed, whichever is earlier.

SECTION 3. ORS 807.250 is amended to read:

807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions under ORS 813.500 and 813.520, the Department of Transportation may not issue a hardship permit under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction of any of the following unless the person submits to the department a recommendation from the judge before whom the person was convicted:

(a) ORS 811.140.

(b) ORS 811.540.

(c) Driving while under the influence of intoxicants. If a person's driving privileges are suspended for a conviction for driving while under the influence of intoxicants and the person is determined under ORS 813.500 to have a problem condition involving alcohol, inhalants or controlled substances as described in ORS 813.040, the judge must:

(A) Make the recommendation with reference to the best interest of the public as well as of the defendant and the recommendation must be in writing.

(B) Recommend times, places, routes and days minimally necessary for the person to seek or retain employment, to attend any alcohol or drug treatment or rehabilitation program or to receive necessary medical treatment for the person or a member of the person's immediate family.

(2) The department may not issue a hardship permit to a person whose suspension of driving privileges is based on a conviction described in ORS 809.265.

(3) The department may not issue a hardship permit to a person whose driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783.

(4) The department may not issue a hardship permit to a person whose driving privileges are suspended pursuant to ORS 809.280 (4) or 809.416 (1) [*or* (2)], **(2) or (4)**.

SECTION 4. ORS 809.415 is amended to read:

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

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

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

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

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

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

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

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

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

(c) A suspension under this subsection shall continue until the person complies with future responsibility filings.

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

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(c) A person whose initial obligation to make future responsibility filings is not based upon a conviction or other action by a court is entitled to a hearing under ORS 809.440 prior to a suspension under this subsection. A person whose obligation to make future responsibility filings is based upon a conviction or other action by a court is entitled to administrative review under ORS 809.440

of a suspension under this subsection. A person whose suspension under this subsection is based on lapses in filing after the initial filing has been made is entitled to administrative review under ORS 809.440.

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

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

(B) Ten years from the date the suspension is imposed if the suspension is imposed for a reason described in ORS 809.416 (1) [*or (2)*], **(2) or (4)** or five years from the date the suspension is imposed if the suspension is imposed for the reason described in ORS 809.416 [*(3)*] **(5)**.

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

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

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

SECTION 5. The amendments to ORS 809.210 and 809.416 by sections 1 and 2 of this 2013 Act apply to offenses occurring before, on or after the effective date of this 2013 Act.

Passed by House April 23, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 21, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State