

# Enrolled Senate Bill 193

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CHAPTER .....

AN ACT

Relating to school transportation providers; creating new provisions; and amending ORS 802.200 and 802.202.

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

**SECTION 1.** Sections 2 and 3 of this 2013 Act are added to and made a part of the Oregon Vehicle Code.

**SECTION 2.** (1) As used in this section and section 3 of this 2013 Act, “school transportation provider” means a school district or a school district contractor that uses school buses or school activity vehicles for:

- (a) The transportation of students or school personnel to or from school or school-related activities; or
  - (b) Public transportation purposes as provided in ORS 332.427.
- (2) Every school transportation provider shall:
- (a) Have an in-house drug and alcohol testing program that meets the federal requirements of 49 C.F.R. part 382; or
  - (b) Be a member of a consortium, as defined in 49 C.F.R. 382.107, that provides testing that meets the federal requirements.
  - (3) Each calendar year, a school transportation provider shall certify to the Department of Education that the provider is in compliance with subsection (2) of this section and, if the provider belongs to a consortium, shall provide the department with the names of persons who operate the consortium.
  - (4) When a medical review officer of a school transportation provider’s testing program or of the consortium the provider belongs to determines that a positive test result is valid, the officer shall report the finding to the Department of Transportation and to the Department of Education.

**SECTION 3.** (1) When the Department of Transportation receives a report under section 2 of this 2013 Act, the department shall notify the person who is the subject of the report that the person has a right to a hearing to determine whether the test results reported under section 2 of this 2013 Act will be placed on the person’s employment driving record.

- (2) The notice shall inform the person of the procedure for requesting a hearing, including but not limited to the time in which a hearing must be requested and the manner of making the request.
- (3) A hearing under this section shall be limited to the following issues:

- (a) Whether the person named in the report is the person who took the test.
- (b) Whether the school transportation provider or consortium has a program that meets the requirements of section 2 of this 2013 Act.
- (c) Whether the medical review officer making the report correctly followed the procedures for testing established by the school transportation provider or consortium.
- (4) If the administrative law judge determines that the person is the person named in the report, that the school transportation provider or consortium has a program meeting the requirements of section 2 of this 2013 Act and that the medical review officer followed established procedures, the administrative law judge shall order the positive test result to be entered into the employment driving record of the person.
- (5) The department shall adopt rules specifying requirements for requesting a hearing under this section.
- (6) If a hearing is not requested within the time limit established by rule, or if the person does not appear at a hearing, the department shall place the information about the positive test result on the employment driving record of the person.
- (7) The department may not be held civilly liable for any damage resulting from placing information about a drug test result on the employment driving record as required by this section or for any damage resulting from release of the information by the department that occurs in the normal course of business.

**SECTION 4.** ORS 802.200 is amended to read:

802.200. In addition to any other records the Department of Transportation may establish, the department is subject to the following provisions concerning records:

(1) The department shall maintain records concerning the titling of vehicles in this state. The records under this subsection shall include the following:

(a) For vehicles issued a title by this state, the records shall identify the vehicle and contain the following:

(A) The name of the vehicle owner and any security interest holders in order of priority, except that a security interest holder need not be identified if the debtor who granted the interest is in the business of selling vehicles and the vehicles constitute inventory held for sale;

(B) The name of any lessor of the vehicle;

(C) The vehicle description; and

(D) Whether a certificate of title was issued for the vehicle.

(b) If the vehicle is an antique vehicle that is reconstructed, the records shall indicate that the vehicle is reconstructed.

(c) If the vehicle is a replica, the records shall indicate that the vehicle is a replica.

(d) Any other information concerning the titling of vehicles that the department considers convenient or appropriate.

(e) All odometer readings for a vehicle that are reported to the department under provisions of the vehicle code.

(f) If the vehicle has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, the records shall indicate that the vehicle is a totaled vehicle unless the reason for the report was theft and the vehicle has been recovered.

(2) If a vehicle that has been registered or titled in another jurisdiction is registered or titled in this state, the department shall retain a record of any odometer readings shown on the title or registration documents submitted to the department at the time of registration or title.

(3) Except as otherwise provided in ORS 826.003, the department shall maintain records concerning the registration of vehicles required to be registered by the department. The records concerning the registration of vehicles may be stored along with records concerning the titling of vehicles. The records under this subsection shall include the following:

(a) For vehicles registered by the department, the records shall identify the vehicle and contain the following:

(A) The registration plate number assigned by the department to the vehicle;

(B) The name of the vehicle owner;  
(C) The vehicle description and vehicle identification number; and  
(D) An indication that the vehicle is a totaled vehicle if it has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

(b) Any other information concerning the registration of vehicles that the department considers convenient or appropriate.

(4) The department shall maintain separate records for the regulation of vehicle dealers. The records required under this subsection shall include the following information about persons issued dealer certificates:

- (a) The person's application for a vehicle dealer certificate.
- (b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.
- (c) A numerical index according to the distinctive number assigned to each vehicle dealer.

(5) The department shall maintain a file on vehicles for which the title record is canceled under ORS 819.030. The records required under this subsection shall disclose the last registered owner of each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the canceled title record for each vehicle and the make and year model for each vehicle.

(6) The department shall maintain a record of each agreement or declaration under ORS 802.500 and 802.520.

(7) The department shall maintain separate and comprehensive records of all transactions affecting the Revolving Account for Emergency Cash Advances described under ORS 802.100.

(8) The department shall maintain suitable records of driver licenses, driver permits and identification cards. The records required under this subsection shall include all of the following:

- (a) An index by name and number.
- (b) Supporting documentation of all driver licenses, driver permits or identification cards issued.
- (c) Every application for a driver license, driver permit or identification card.
- (d) All driver licenses or driver permits that have been suspended or revoked.
- (e) For each driver license, driver permit or identification card, the Social Security number of the person to whom the driver license, driver permit or identification card is issued or proof that the person is not eligible for a Social Security number.

(f) For each commercial driver license, the Social Security number of the person to whom the license is issued, or any other number or identifying information that the Secretary of the United States Department of Transportation determines appropriate to identify the person.

(9) The Department of Transportation shall maintain a two-part driving record consisting of an employment driving record and a nonemployment driving record for each person as required under this subsection. All of the following apply to the records required under this subsection:

- (a) The department shall maintain driving records on:
  - (A) Every person who is granted driving privileges under a driver license, driver permit or a statutory grant of driving privileges under ORS 807.020;
  - (B) Every person whose driving privileges have been suspended, revoked or canceled under this vehicle code;
  - (C) Every person who has filed an accident report under ORS 811.725 or 811.730; and
  - (D) Every person who is required to provide future responsibility filings under ORS 806.200, 806.220, 806.230 or 806.240.

(b) In addition to other information required by this paragraph, the employment driving record shall include all reports of drug test results that are made to the department under ORS 825.410 **or section 2 of this 2013 Act**. Notwithstanding any other provision of law, release of the portion of the employment driving record that shows drug test results reported under ORS 825.410 **or section 2 of this 2013 Act** is permitted only in accordance with ORS 802.202. The employment driving record shall also include all motor vehicle accidents that the person is required to report under ORS 811.720, all suspensions of driving privileges required to be placed on the record under ORS 809.280, all suspensions of the person's commercial driver license that result from operation or use of a

commercial motor vehicle and all convictions of the person for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation or suspension of driving privileges under ORS 809.409, 809.411, 809.413 and 813.400, but shall include only such accidents, suspensions and convictions that occur while the person is driving a motor vehicle:

(A) In the course of the person's employment when the person is employed by another for the principal purpose of driving a motor vehicle;

(B) Carrying persons or property for compensation;

(C) In the course of the person's employment in the collection, transportation or delivery of mail if the vehicle is government owned or marked for the collection, transportation or delivery of mail in accordance with government rules;

(D) That is an authorized emergency vehicle;

(E) That is a commercial motor vehicle; or

(F) In the course of the person's employment with a federal, state or local government in a public works project involving repair or maintenance of water, sewer or road systems.

(c) The nonemployment driving record shall include the person's:

(A) Motor vehicle accidents that the person is required to report under ORS 811.720, other than the motor vehicle accidents that are included on the person's employment driving record;

(B) Suspensions, cancellations and revocations of licenses, permits and driving privileges;

(C) Convictions for violation of the motor vehicle laws other than those included in the employment driving record including, for each violation of ORS 811.100 or 811.111, the speed at which the person was convicted of traveling and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate; and

(D) Diversion agreements entered into under ORS 813.220 within the preceding 15 years.

(d) The department may record other entries to indicate correspondence, interviews, participation in driver improvement programs or other matters concerning the status of the driving privileges of the person.

(e) When a person from another jurisdiction applies for a driver license or driver permit issued by this state, the department shall request a copy of the person's driving record from the other jurisdiction. At the time the person is issued a license in Oregon, the record from the other jurisdiction shall become part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance. The department by rule may specify methods for converting entries from out-of-state records for use in Oregon.

(f) When a suspension of a driver permit, driver license or other driving privilege is placed on the driving record under ORS 809.280 for failure to appear in court on a traffic crime, the department shall note on the record that the suspension was for failure to appear in court and shall also note the offense charged against the person on which the person failed to appear.

(g) The Department of Transportation, in consultation with the Department of State Police, shall devise and implement a method of noting suspensions and revocations of driving privileges on the record in such a way that police agencies can determine directly from the record what class of offense, as provided by law, is committed by a person who drives in violation of the suspension or revocation. If the Department of Transportation and the Department of State Police devise a mutually agreeable alternative method of informing police agencies of the nature of a suspension or revocation and the consequences of its violation, the implementation of that method shall satisfy the duty of the Department of Transportation under this paragraph.

(10) The Department of Transportation shall maintain records of judgments or convictions sent to the department under ORS 810.375.

(11) The department shall maintain accident reports filed with the department under ORS 810.460 and 811.725 to 811.735.

(12) The department shall maintain records of bank checks or money orders returned under ORS 802.110.

(13) The department shall maintain records of trip permits issued by the department under ORS 803.600, as provided under this subsection. The records required by this subsection shall include the following:

- (a) A description of the vehicle sufficient to identify the vehicle.
- (b) The person to whom the permit was issued.
- (c) When the permit was issued.
- (d) The type of permit issued.
- (e) For registration weight trip permits, the maximum allowable registration weight permitted for operation under the permit.
- (f) Any other information the department determines appropriate or convenient.

**SECTION 5.** ORS 802.202 is amended to read:

802.202. The Department of Transportation shall disclose information about a drug test result that is made to the department under ORS 825.410 **or section 2 of this 2013 Act** only if the person who requests the information provides the department with written permission from the person who is the subject of the report.

**Passed by Senate February 26, 2013**

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House May 7, 2013**

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Tina Kotek, Speaker of House

**Received by Governor:**

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**Approved:**

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

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John Kitzhaber, Governor

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

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Kate Brown, Secretary of State