



Oregon

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DATE: March 4, 2015

TO: House Committee on Judiciary

FROM: Amy Joyce, Legislative Liaison

SUBJECT: HB 2391, hardship driving permits for Assault 2, 3, 4

INTRODUCTION

House Bill 2391 allows a court to waive the waiting period for a hardship driving permit, with certain conditions, for those convicted of Assault 2, 3, or 4. As drafted, the bill may override all other suspensions on the person's record. The bill also would benefit from a technical fix.

DISCUSSION

In 1999 the legislature changed the law on Assault 2, 3, and 4, from a permanent revocation of the driver license to a suspension, which allowed for a hardship permit. The limit on that was a waiting period, ranging from six months to four years, depending on the level of crime. In addition, the starting date of the waiting period depends on whether the person was incarcerated. Today, DMV issues an average of 20 hardship permits per year for these assault convictions.

Under existing law the hardship permit may be granted only for employment purposes, for substance abuse treatment, or for medical needs of the person or his/her family. The routes for those purposes are detailed as part of the permit and included in the electronic record. The hardship permit must be revoked upon conviction of a list of serious traffic offenses, or if the person does not maintain a "good driving record," as defined in rule. Every hardship permit DMV issues comes with the requirement to show proof of financial responsibility (SR-22 insurance). Because a conviction for Assault 2, 3, or 4 necessarily involves a DUII, DMV requires proof of installation of an ignition interlock device (IID).

The bill allows a court to order a hardship permit to be issued immediately if the person meets certain criteria. The person must show proof of employment, and the court may order an IID although it is not required. Like the existing hardship law, the permit allows the person to drive for employment, treatment, and medical purposes, and DMV includes the specific route information in the permit. SR-22 insurance would be required, and if the court orders an IID, proof of its installation would also be required.

One concern is that the bill provides for the court to order a hardship permit. However, some people have multiple suspensions or revocations at one time. If a person who qualified for a hardship permit under the bill's provisions also had other suspensions – including those that by law do not allow a hardship permit – this bill may effectively allow the court to override the other suspensions.

Also, the bill would benefit from a technical fix. The bill provides for a court that has granted this hardship permit to “reissue a notice of suspension” under certain conditions of non-compliance by the permit-holder. Instead, the action should be to order the revocation of the hardship permit. Otherwise it seems there would be a new suspension, with the attendant waiting periods.

SUMMARY

The committee may want to consider whether a court granting this hardship permit should or should not override any other suspensions or revocations already imposed against the applicant. The bill would benefit from technical fixes to make clear the process and outcome in the event of non-compliance.