

House Bill 3120

Sponsored by Representative PARRISH

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**.

Directs Department of Transportation to create program by which certain persons may apply for reduction or waiver of moneys owed to department.

Creates process by which person on supervision after conviction for crime may petition court for order reinstating driving privileges or reversing revocation of occupational or professional license in certain circumstances.

Directs Department of Transportation to reinstate person's driving privileges upon receipt of court order.

Directs licensing board, commission or agency to reverse revocation of license upon receipt of court order.

A BILL FOR AN ACT

1
2 Relating to defendants on supervision; creating new provisions; and amending ORS 670.280 and
3 809.380.

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

5 **SECTION 1. (1) The Department of Transportation shall create a program by which a**
6 **person who has had the person's driving privileges reinstated pursuant to a court order un-**
7 **der section 2 of this 2015 Act may apply for the reduction or waiver of any moneys owed to**
8 **the department.**

9 **(2) The department shall create an application process and criteria for the reduction or**
10 **waiver of moneys owed for the program described in subsection (1) of this section. The cri-**
11 **teria must take into consideration a court finding pursuant to section 2 of this 2015 Act that**
12 **the person is unable to pay any moneys owed to the department.**

13 **(3) The department shall adopt rules to implement this section.**

14 **SECTION 2. (1) A person who is on probation, post-prison supervision or parole after**
15 **conviction of a crime and who is experiencing barriers to employment, education or treat-**
16 **ment due to the suspension of the person's driving privileges may file a petition in the circuit**
17 **court in which the person was convicted for an order reinstating the person's driving privi-**
18 **leges.**

19 **(2) The district attorney of the county in which the person was convicted shall be named**
20 **and served as the respondent in the petition.**

21 **(3) The court shall hold a hearing on a petition filed in accordance with subsection (1)**
22 **of this section. In determining whether to grant the petition, the court shall consider:**

23 **(a) The nature of the offense for which the person was convicted;**

24 **(b) Other criminal and relevant noncriminal behavior of the person both before and after**
25 **the conviction that resulted in the suspension;**

26 **(c) The person's compliance with the sentence of the court;**

27 **(d) The recommendation of the person's probation, post-prison supervision or parole of-**

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 **ficer; and**

2 (e) **Any other relevant factors.**

3 (4)(a) **The court shall order a petitioner’s driving privileges reinstated if, after a hearing**
 4 **described in subsection (3) of this section, the court finds by clear and convincing evidence**
 5 **that the person:**

6 (A) **Is rehabilitated;**

7 (B) **Does not pose a threat to the safety of the public; and**

8 (C) **Would be better able to comply with the conditions of the person’s supervision upon**
 9 **the reinstatement of the person’s driving privileges.**

10 (b) **The court may include in the order:**

11 (A) **A finding that the person is unable to pay the reinstatement fee established under**
 12 **ORS 807.370; or**

13 (B) **A finding that the person is unable to pay any moneys owed to the Department of**
 14 **Transportation.**

15 (5) **Upon receiving a court order to reinstate a person’s driving privileges, the Depart-**
 16 **ment of Transportation shall reinstate driving privileges in accordance with ORS 809.380.**

17 **SECTION 3.** ORS 809.380 is amended to read:

18 809.380. All of the following apply to a person whose driving privileges have been suspended:

19 (1) The period of suspension shall last as long as provided for that particular suspension by law.

20 (2) During the period of suspension, the person is not entitled to exercise any driving privileges
 21 in this state except as provided under this subsection. Unless otherwise specifically provided by law,
 22 a person whose driving privileges are suspended may obtain, if the person qualifies, a hardship
 23 driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

24 (3) Upon expiration of the suspension, the Department of Transportation shall reissue, upon re-
 25 quest of the person, the suspended driving privileges and any license or driver permit that evidences
 26 the driving privileges. The reissuance shall be without requalification by the person except that the
 27 department may require the person to furnish evidence satisfactory to the department that the per-
 28 son is qualified to continue to exercise driving privileges in this state before the department reissues
 29 the driving privileges.

30 (4) The department may not issue **or reinstate** any driving privileges in contradiction to this
 31 section **except as required by section 2 of this 2015 Act.**

32 (5) If the person fails to surrender to the department any license or driver permit issued as ev-
 33 idence of driving privileges that are suspended, the person is subject to the penalties under ORS
 34 809.500.

35 (6) No reinstatement of suspended driving privileges will be made by the department until the
 36 fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or
 37 waived by the department. The department may waive the reinstatement fee for any of the following
 38 reasons:

39 (a) The suspension occurred under ORS 809.419 for failure to take an examination upon request
 40 of the department under ORS 807.340.

41 (b) The suspension occurred under ORS 809.419 for failure to obtain required medical clearance
 42 upon request of the department under ORS 807.070 or 807.090.

43 (c) The suspension occurred under ORS 809.419 for incompetence to drive a motor vehicle or
 44 having a mental or physical condition or impairment that affects the person’s ability to safely op-
 45 erate a motor vehicle.

1 (d) The suspension occurred under ORS 809.419 upon notification by the superintendent of a
2 hospital under ORS 807.700 that a person should not drive.

3 (e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375
4 that a person charged with a traffic offense has been found guilty except for insanity.

5 (f) The department committed an error in issuing the suspension.

6 (g) The suspension was the result of an error committed by an insurance company in issuing or
7 failing to issue a certification of insurance or in canceling a certification of insurance filed with the
8 department under ORS 806.270.

9 (h) The department issued the suspension without error because the person failed to respond as
10 required under ORS 806.160 or to furnish proof of exemption under ORS 806.210 from the filing re-
11 quirement of ORS 806.200, but the department later determines that the person in fact was in com-
12 pliance with financial responsibility requirements as of the date of the department's letter of
13 verification under ORS 806.150 or at the time of an accident described in ORS 806.200.

14 (i) The department issued the suspension without error because the person was not in compli-
15 ance with financial responsibility requirements as of the date of the department's letter of verifica-
16 tion under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department
17 later determines that the person reasonably and in good faith believed that the person was in com-
18 pliance with financial responsibility requirements on the date of the department's letter of verifica-
19 tion or at the time of the accident.

20 (j) The suspension was the result of an error committed by an insurance company in notifying
21 the department regarding the correctness of a certification under ORS 806.150.

22 (k) The suspension occurred because the person failed to make future responsibility filings but
23 the department later determines that the reason for the failure was that the person was a military
24 reservist or a member of a national guard unit that was ordered to active military duty to a location
25 outside of the United States. The effective date of the military orders must be prior to the effective
26 date of a suspension issued by the department for failure to make a future responsibility filing.

27 (L) The department issued the suspension without error because the department received a no-
28 tice to suspend from a court under ORS 809.210 or 809.220, but the department later determines that
29 the person in fact was in compliance with the requirements of the court prior to the effective date
30 of the suspension.

31 **(m) The court finds that the person is unable to pay the reinstatement fee in an order**
32 **under section 2 of this 2015 Act.**

33 (7) The department shall waive the reinstatement fee for a person whose driving privileges were
34 suspended under ORS 809.423 (3) if the person:

35 (a) Has graduated from high school and provides the department with proof of graduation sat-
36 isfactory to the department; or

37 (b) Has received a General Educational Development (GED) certificate from a community col-
38 lege and provides the department with proof of the certificate satisfactory to the department.

39 **SECTION 4. (1) A person who is on probation, post-prison supervision or parole after**
40 **conviction of a crime and who is experiencing barriers to employment due to the revocation**
41 **of the person's occupational or professional license may file a petition in the circuit court**
42 **in which the person was convicted for an order directing the licensing board, commission or**
43 **agency to reverse the revocation.**

44 **(2) The district attorney of the county in which the person was convicted shall be named**
45 **and served as the respondent in the petition.**

1 **(3) The court shall hold a hearing on a petition filed in accordance with subsection (1)**
2 **of this section. In determining whether to grant the petition, the court shall consider:**

3 **(a) The nature of the offense for which the person was convicted;**

4 **(b) Other criminal and relevant noncriminal behavior of the person both before and after**
5 **the conviction that resulted in the suspension;**

6 **(c) The person's compliance with the sentence of the court;**

7 **(d) The recommendation of the person's probation, post-prison supervision or parole of-**
8 **ficer; and**

9 **(e) Any other relevant factors.**

10 **(4) The court shall issue an order directing the licensing board, commission or agency**
11 **to reverse the revocation of the person's occupational or professional license if, after a**
12 **hearing described in subsection (3) of this section, the court finds by clear and convincing**
13 **evidence that the person:**

14 **(a) Is rehabilitated;**

15 **(b) Does not pose a threat to the safety of the public;**

16 **(c) Is not disqualified from holding the occupational or professional license for some**
17 **other lawful reason; and**

18 **(d) Would be better able to comply with the conditions of the person's supervision and**
19 **obtain or maintain employment upon reversal of the revocation of the person's occupational**
20 **or professional license.**

21 **(5) Upon receiving the court order described in subsection (4) of this section, the appli-**
22 **cable licensing board, commission or agency shall reinstate the occupational or professional**
23 **license that was revoked due to the person's conviction.**

24 **SECTION 5.** ORS 670.280 is amended to read:

25 670.280. (1) As used in this section:

26 (a) "License" includes a registration, certification or permit.

27 (b) "Licensee" includes a registrant or a holder of a certification or permit.

28 (2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or
29 agency:

30 (a) May not deny, suspend or revoke an occupational or professional license solely for the rea-
31 son that the applicant or licensee has been convicted of a crime, but it may consider the relationship
32 of the facts [*which*] **that** support the conviction and all intervening circumstances to the specific
33 occupational or professional standards in determining the fitness of the person to receive or hold
34 the license.

35 **(b) Shall reverse a revocation of a person's occupation or professional license upon re-**
36 **ceipt of a court order described in section 4 of this 2015 Act.**

37 (3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or
38 agency may deny an occupational or professional license or impose discipline on a licensee based
39 on conduct that is not undertaken directly in the course of the licensed activity, but that is sub-
40 stantially related to the fitness and ability of the applicant or licensee to engage in the activity for
41 which the license is required. In determining whether the conduct is substantially related to the
42 fitness and ability of the applicant or licensee to engage in the activity for which the license is re-
43 quired, the licensing board, commission or agency shall consider the relationship of the facts with
44 respect to the conduct and all intervening circumstances to the specific occupational or professional
45 standards.

