

House Bill 2639

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Allows person issued hardship permit to provide necessary services to person or to member of person's family.

Modifies laws related hardship permits issued to persons whose driving privileges are suspended for driving while under influence of intoxicants or failure to comply with implied consent law.

Increases penalty for violation driving while suspended. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both. Renames offense of violation driving while suspended or revoked to driving while suspended or revoked in second degree.

Increases penalty for criminal driving while suspended or revoked for certain crimes. Punishes by maximum of 5 years' imprisonment, \$125,000 fine, or both. Renames offense of criminal driving while suspended or revoked to driving while suspended or revoked in first degree.

A BILL FOR AN ACT

1
2 Relating to driving privileges; creating new provisions; and amending ORS 131.602, 132.320, 135.295,
3 801.026, 807.072, 807.240, 807.252, 809.600, 809.740, 810.530, 811.175, 811.182, 811.230, 811.235,
4 811.483, 813.130, 813.500, 813.510, 813.520 and 813.604.

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

HARDSHIP PERMITS

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9 **SECTION 1.** ORS 807.240 is amended to read:

10 807.240. The Department of Transportation shall provide for issuance of hardship driver permits
11 in a manner consistent with this section. A hardship driver permit grants the driving privileges
12 provided in this section or under the permit. Except as otherwise provided in this section, a hardship
13 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to
14 a license. The following apply to a hardship driver permit:

15 (1) The department may only issue a permit to a person whose driving privileges under the ve-
16 hicle code have been suspended.

17 (2) Except as provided in ORS 813.520, the department may reinstate the privilege to operate a
18 motor vehicle of any person whose license to operate a motor vehicle has been suspended by issuing
19 the person a hardship permit described under this section if such person qualifies under this section,
20 ORS 807.250, 807.252 and 813.500. However, the department may not issue a hardship permit au-
21 thORIZING a person to drive a commercial motor vehicle.

22 (3) To qualify for a hardship permit, a person must do all of the following in addition to any
23 applicable provisions under ORS 807.250, 807.252 and 813.500:

24 (a) The person must submit to the department an application for the permit that demonstrates
25 the person's need for the permit.

26 (b) The person must present satisfactory evidence, as determined by the department by rule:

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 (A) That the person must operate a motor vehicle as a requisite of the person's occupation or
 2 employment;

3 (B) That the person must operate a motor vehicle to seek employment or to get to or from a
 4 place of employment;

5 (C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment
 6 or rehabilitation program;

7 (D) That the person or a member of the person's immediate family requires medical treatment
 8 on a regular basis and that the person must operate a motor vehicle in order that the treatment
 9 may be obtained; or

10 (E) *[That the person's driving privileges are suspended for driving uninsured in violation of ORS*
 11 *806.010 or for violation of ORS 165.805 or 471.430 and are not suspended for any other reason and]*
 12 That the person must operate a motor vehicle in order to provide necessary services to the person
 13 or to a member of the person's family. The department shall determine by rule what constitutes
 14 necessary services for purposes of this subparagraph. The rule shall include as necessary services,
 15 but need not be limited to, grocery shopping, driving the person or the person's children to school,
 16 driving to medical appointments and caring for elderly family members.

17 (c) If the person is applying for a permit because the person or a member of the person's im-
 18 mediate family requires medical treatment on a regular basis, the person must present, in addition
 19 to any evidence required by the department under paragraph (b) of this subsection, a statement
 20 signed by a licensed physician or certified nurse practitioner that indicates that the person or a
 21 member of the person's immediate family requires medical treatment on a regular basis.

22 (d) The person must show that the person is not incompetent to drive nor a habitual incompe-
 23 tent, reckless or criminally negligent driver as established by the person's driving record in this or
 24 any other jurisdiction.

25 (e) The person must make a future responsibility filing.

26 (f) The person must submit any other information the department may require for purposes of
 27 determining whether the person qualifies under this section, ORS 807.250, 807.252, 813.500 and
 28 813.520.

29 (4) If the department finds that the person meets the requirements of this section and any ap-
 30 plicable requirements under ORS 807.250, 807.252, 813.500 and 813.520, the department may issue the
 31 person a hardship permit, valid for the duration of the suspension or for a shorter period of time
 32 established by the department unless sooner suspended or revoked under this section. If the de-
 33 partment issues the permit for a period shorter than the suspension period, renewal of the permit
 34 shall be on such terms and conditions as the department may require. The permit:

35 (a) Shall limit the holder to operation of a motor vehicle only during specified times.

36 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a
 37 motor vehicle that the department deems proper or necessary. The limitations may include any
 38 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS
 39 811.175 or 811.182.

40 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of
 41 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or
 42 813.510, may suspend or revoke the hardship permit.

43 (6) The fee charged for application or issuance of a hardship driver permit is the hardship driver
 44 permit application fee under ORS 807.370. The department may not refund the fee if the application
 45 is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit

1 is the same fee as that charged for renewal of a license. The application fee charged under this
 2 subsection is in addition to any fee charged for reinstatement of driving privileges under ORS
 3 807.370.

4 (7) The department may issue a permit granting the same driving privileges as those suspended
 5 or may issue a permit granting fewer driving privileges, as the department determines necessary to
 6 assure safe operation of motor vehicles by the permit holder.

7 **SECTION 2.** ORS 813.500 is amended to read:

8 813.500. (1) If a person's license is suspended for driving while under the influence of intoxicants
 9 under ORS 813.400 [*and the suspension period is determined by ORS 809.428 (2)(b) or (c)*] **for a sec-**
 10 **ond time**, the Department of Transportation may only issue a hardship permit to the person under
 11 ORS 807.240 if the person, in addition to any requirement under ORS 807.240 and any applicable
 12 requirements under ORS 807.250 and 813.520:

13 (a) Is examined by the Oregon Health Authority to determine whether the person has a problem
 14 condition involving alcohol, inhalants or controlled substances as described in ORS 813.040; and

15 (b) Complies with the requirements of this section.

16 (2) If the authority determines that the person has a problem condition involving alcohol,
 17 inhalants or controlled substances, as described in ORS 813.040, the department may issue the per-
 18 mit to the person only if both the following apply:

19 (a) The person enrolled in a program for rehabilitation for alcoholism or drug dependence ap-
 20 proved by the authority.

21 (b) The authority recommends, on the basis of the person's progress in the rehabilitation pro-
 22 gram, such reinstatement in writing to the department. If the authority makes a recommendation
 23 under this paragraph, the authority shall state specifically in the recommendation the times, places,
 24 routes and days of the week minimally necessary for the person to seek or retain employment, to
 25 attend any alcohol or drug treatment or rehabilitation program, [*or*] to obtain necessary medical
 26 treatment for the person or a member of the person's immediate family[.] **or to provide necessary**
 27 **services to the person or to a member of the person's family. The department shall deter-**
 28 **mine by rule what constitutes necessary services for purposes of this paragraph. The rule**
 29 **shall include as necessary services, but need not be limited to, grocery shopping, driving the**
 30 **person or the person's children to school, driving to medical appointments and caring for**
 31 **elderly family members.**

32 (3) If the authority determines that the person does not have a problem condition involving al-
 33cohol, inhalants or controlled substances as described in ORS 813.040, the department may issue the
 34 permit to the person only if, in addition to any requirements under ORS 807.240, the person enters
 35 an alcohol or drug information program approved by the authority and the department determines
 36 that issuance of a permit is appropriate. If the department issues a permit to a person described in
 37 this subsection, the department shall require, under ORS 807.240, that the person complete the pro-
 38 gram as a condition of retaining the permit.

39 **SECTION 3.** ORS 813.510 is amended to read:

40 813.510. This section establishes limitations that the Department of Transportation is required
 41 or permitted to place on hardship permits issued under ORS 807.240 to persons whose suspension is
 42 based upon a conviction for driving under the influence of intoxicants or upon ORS 813.100. Limi-
 43 tations placed on a hardship permit under this section are in addition to any limitations placed on
 44 the permit under ORS 807.240. A person's permit is subject to suspension or revocation as provided
 45 under ORS 807.240 if the department determines that the holder of the permit has violated any

1 limitation placed upon the permit under this section. Violation of a limitation under this section is
 2 punishable as provided by ORS 811.175 or 811.182. The limitations are as described in the following:

3 (1) A hardship permit issued to the person shall limit the person's driving privileges:

4 (a) To the times, places, routes and days the department determines to be minimally necessary
 5 for the person to seek or retain employment, to attend any alcohol or drug treatment or rehabili-
 6 tation program or to obtain required medical treatment for the person or a member of the person's
 7 immediate family; *[and]*

8 (b) To times, places, routes and days that are specifically stated[.]; **and**

9 **(c) To the times, places, routes and days the department determines to be minimally**
 10 **necessary for the person to provide necessary services to the person or to a member of the**
 11 **person's family. The department shall determine by rule what constitutes necessary services**
 12 **for purposes of this paragraph. The rule shall include as necessary services, but need not be**
 13 **limited to, grocery shopping, driving the person or the person's children to school, driving**
 14 **to medical appointments and caring for elderly family members.**

15 (2) The person's driving privileges under the permit are subject to suspension or revocation if
 16 the person does not maintain a good driving record, as defined by the administrative rules of the
 17 department, during the term of the permit.

18 (3) If the person is in a rehabilitation program under ORS 813.500, the person must complete the
 19 rehabilitation program.

20 (4) The department may require the person to complete a driver improvement program under
 21 ORS 809.480 as a condition of the permit.

22 (5) If the person is involved in a diversion agreement under ORS 813.220 and 813.230, the de-
 23 partment may require the person to successfully complete the diversion program as a condition of
 24 retaining the permit.

25 (6) The department shall condition the permit so that the permit will be revoked if the person
 26 is convicted of any of the following:

27 (a) Reckless driving under ORS 811.140.

28 (b) Driving under the influence of intoxicants under ORS 813.010.

29 (c) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

30 (d) Fleeing or attempting to elude a police officer under ORS 811.540.

31 (e) Driving while suspended or revoked under ORS 811.175 or 811.182.

32 **SECTION 4.** ORS 813.520 is amended to read:

33 813.520. In addition to any provisions of ORS 807.240 and 813.510 or 807.250, this section estab-
 34 lishes limitations on the authority of the Department of Transportation to issue driving privileges
 35 under ORS 807.240. The department may not reinstate any driving privileges or issue any hardship
 36 permit under ORS 807.240 as provided under any of the following:

37 (1) For a period of *[90]* **30** days after the beginning of the suspension if the suspension is for
 38 refusal of a test under ORS 813.100 and the person is not subject to an increase in the time before
 39 a permit may be issued for reasons described in ORS 813.430. This period of *[90]* **30** days shall be
 40 reduced by the time the department refused to issue a hardship permit under subsection (5) *[or (6)]*
 41 of this section if the person's driving privileges were suspended based on the same occurrence.

42 (2) For a period of *[30]* **10** days after the beginning of the suspension if the suspension is because
 43 a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the
 44 person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300
 45 and the person is not subject to an increase in the time before a hardship permit may be issued for

1 reasons described in ORS 813.430. This period of [30] **10** days shall be reduced by the time the de-
2 partment refused to issue a hardship permit under subsection (5) [or (6)] of this section if the
3 person's driving privileges were suspended based on the same occurrence.

4 (3) For a period of [one year] **60 days** after the beginning of the suspension if the suspension is
5 because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol
6 in the person's blood that constituted being under the influence of intoxicating liquor under ORS
7 813.300 and the person is subject to an increase in the time before a hardship permit may be issued
8 for reasons described under ORS 813.430. This period of [one year] **60 days** shall be reduced by the
9 time the department refused to issue a hardship permit under subsection (5) [or (6)] of this section
10 if the person's driving privileges were suspended based on the same occurrence.

11 (4) For a period of [three years] **six months** after the beginning of the suspension if the sus-
12 pension is for refusal of a test under ORS 813.100 and the person is subject to an increase in the
13 time before a hardship permit may be issued for reasons described in ORS 813.430. This period of
14 [three years] **six months** shall be reduced by the time the department refused to issue a hardship
15 permit under subsection (5) [or (6)] of this section if the person's driving privileges were suspended
16 based on the same occurrence.

17 (5) For a period of [90] **30** days after the beginning of the suspension under ORS 813.400 if it is
18 the person's second conviction for driving while under the influence of intoxicants [*if the suspension*
19 *period is determined by ORS 809.428 (2)(b)*]. This period of [90] **30** days shall be reduced by the time
20 the department refused to issue a hardship permit under subsection (1), (2), (3) or (4) of this section
21 if the person's driving privileges were suspended based on the same occurrence.

22 [*(6) For a period of one year after the beginning of the suspension under ORS 813.400 for driving*
23 *while under the influence of intoxicants if the suspension period is determined by ORS 809.428 (2)(c).*
24 *This period of one year shall be reduced by the time the department refused to issue a hardship permit*
25 *under subsection (1), (2), (3) or (4) of this section if the person's driving privileges were suspended*
26 *based on the same occurrence.*]

27 **(6) To any person convicted for a third or subsequent time of driving while under the**
28 **influence of intoxicants in violation of ORS 813.010 or the statutory counterpart in another**
29 **jurisdiction.**

30 (7) To any person who has a mental or physical condition or impairment that affects the person's
31 ability to safely operate a motor vehicle.

32 (8) If the suspension is based upon a conviction for a violation of ORS 813.010 or is imposed
33 under ORS 813.410 based upon ORS 813.100 to a person who has available public or private trans-
34 portation sufficient to fulfill the person's transportation needs while the person is suspended.

35 (9) For a period of 30 days following imposition of suspension, if the person, within the previous
36 year, has been convicted of a traffic crime and the suspension is based upon a conviction for vio-
37 lation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100.

38 **(10) Until after the person provides proof, as determined by the department by rule, that**
39 **the person has installed an ignition interlock device, if the suspension is based upon a con-**
40 **vicition for driving under the influence of intoxicants in violation of ORS 813.010 or is imposed**
41 **under ORS 813.410 based upon ORS 813.100.**

42 **(11) To any person issued a hardship permit under ORS 807.240 whose suspension is based**
43 **upon a conviction for driving under the influence of intoxicants in violation of ORS 813.010**
44 **or is imposed under ORS 813.410 based upon ORS 813.100 and who is subsequently convicted**
45 **of violating 811.175 (1)(b) for driving outside the limitations of a hardship driver permit issued**

1 **under ORS 807.240, including any limitations placed on the permit under ORS 813.510.**

2
3 **DRIVING WHILE SUSPENDED OR REVOKED**

4
5 **SECTION 5.** ORS 811.175 is amended to read:

6 811.175. (1) A person commits the offense of [*violation*] driving while suspended or revoked **in**
7 **the second degree** if the 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 **in the**
21 **second degree**, is a [*Class A traffic violation*] **Class C misdemeanor** except as otherwise provided
22 in ORS 811.182.

23 **SECTION 6.** ORS 811.182 is amended to read:

24 811.182. (1) A person commits the offense of [*criminal*] driving while suspended or revoked **in**
25 **the first degree** if the person violates ORS 811.175 and the suspension or revocation is one de-
26 scribed in this section, or if the hardship or probationary permit violated is based upon a suspension
27 or revocation described in subsection [(3) or (4)] **(3), (4) or (5)** of this section.

28 (2) Affirmative defenses to the offense described in this section are established under ORS
29 811.180.

30 (3) The offense described in this section, [*criminal*] driving while suspended or revoked **in the**
31 **first degree**, is a Class B felony if the suspension or revocation resulted from any degree of murder,
32 manslaughter, criminally negligent homicide or assault resulting from the operation of a motor ve-
33 hicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated
34 driving while suspended or revoked or if the revocation resulted from a conviction for felony driving
35 while under the influence of intoxicants.

36 (4) The offense described in this section, [*criminal*] driving while suspended or revoked **in the**
37 **first degree**, is a Class A misdemeanor if the suspension or revocation is any of the following:

38 (a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree
39 of recklessly endangering another person, menacing or criminal mischief, resulting from the opera-
40 tion of a motor vehicle.

41 (b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit
42 to the Department of Transportation.

43 [*(c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS*
44 *813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:]*

45 [*(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;]*

1 *[(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or]*

2 *[(C) Any amount if the person was under 21 years of age.]*

3 *[(d)] (c) A suspension of commercial driving privileges under ORS 809.510 resulting from failure*
 4 *to perform the duties of a driver under ORS 811.700.*

5 *[(e) A suspension of commercial driving privileges under ORS 809.510 (6) where the person's*
 6 *commercial driving privileges have been suspended or revoked by the other jurisdiction for failure of*
 7 *or refusal to take a chemical test to determine the alcoholic content of the person's blood under a statute*
 8 *that is substantially similar to ORS 813.100.]*

9 *[(f)] (d) A suspension of commercial driving privileges under ORS 809.520.*

10 *[(g)] (e) A revocation resulting from habitual offender status under ORS 809.640.*

11 *[(h)] (f) A suspension resulting from any crime punishable as a felony with proof of a material*
 12 *element involving the operation of a motor vehicle, other than a crime described in subsection (3)*
 13 *of this section.*

14 *[(i)] (g) A suspension for failure to perform the duties of a driver under ORS 811.705.*

15 *[(j)] (h) A suspension for reckless driving under ORS 811.140.*

16 *[(k)] (i) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.*

17 *[(L)] (j) A suspension or revocation resulting from misdemeanor driving while under the influ-*
 18 *ence of intoxicants under ORS 813.010.*

19 *[(m)] (k) A suspension for use of a motor vehicle in the commission of a crime punishable as a*
 20 *felony.*

21 **(5) The offense described in this section, driving while suspended or revoked in the first**
 22 **degree, is a Class C felony if the suspension or revocation is any of the following:**

23 **(a) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in**
 24 **ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol**
 25 **content of:**

26 **(A) 0.08 percent or more by weight if the person was not driving a commercial motor**
 27 **vehicle;**

28 **(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle;**
 29 **or**

30 **(C) Any amount if the person was under 21 years of age.**

31 **(b) A suspension of commercial driving privileges under ORS 809.510 (6) where the**
 32 **person's commercial driving privileges have been suspended or revoked by the other juris-**
 33 **isdiction for failure of or refusal to take a chemical test to determine the alcoholic content**
 34 **of the person's blood under a statute that is substantially similar to ORS 813.100.**

35 **[(5)] (6) In addition to any other sentence that may be imposed, if a person is convicted of the**
 36 **offense described in this section and the underlying suspension resulted from driving while under**
 37 **the influence of intoxicants, the court shall impose a minimum fine of at least \$1,000 if it is the**
 38 **person's first conviction for [criminal] driving while suspended or revoked in the first degree and**
 39 **a minimum fine of at least \$2,000 if it is the person's second or subsequent conviction.**

40 **[(6)(a)] (7)(a) The Oregon Criminal Justice Commission shall classify a violation of this section**
 41 **that is a felony as crime category 4 of the rules of the commission.**

42 **(b) Notwithstanding paragraph (a) of this subsection, the commission shall classify a violation**
 43 **of this section that is a felony as crime category 6 of the rules of the commission, if the suspension**
 44 **or revocation resulted from:**

45 **(A) Any degree of murder, manslaughter or criminally negligent homicide or an assault that**

1 causes serious physical injury, resulting from the operation of a motor vehicle; or
2 (B) Aggravated vehicular homicide or aggravated driving while suspended or revoked.

3
4 **CONFORMING AMENDMENTS**

5
6 **SECTION 7.** ORS 131.602, as amended by section 6, chapter 47, Oregon Laws 2016, is amended
7 to read:

8 131.602. The crimes to which ORS 131.550 (12)(b) applies are:

- 9 (1) Bribe giving, as defined in ORS 162.015.
- 10 (2) Bribe receiving, as defined in ORS 162.025.
- 11 (3) Public investment fraud, as defined in ORS 162.117.
- 12 (4) Bribing a witness, as defined in ORS 162.265.
- 13 (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 14 (6) Simulating legal process, as defined in ORS 162.355.
- 15 (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 16 (8) Assisting another person to commit suicide, as defined in ORS 163.193.
- 17 (9) Custodial interference in the second degree, as defined in ORS 163.245.
- 18 (10) Custodial interference in the first degree, as defined in ORS 163.257.
- 19 (11) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- 20 (12) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- 21 (13) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 22 (14) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 23 (15) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 24 (16) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
25 defined in ORS 163.688.
- 26 (17) Possession of materials depicting sexually explicit conduct of a child in the second degree,
27 as defined in ORS 163.689.
- 28 (18) Theft in the second degree, as defined in ORS 164.045.
- 29 (19) Theft in the first degree, as defined in ORS 164.055.
- 30 (20) Aggravated theft in the first degree, as defined in ORS 164.057.
- 31 (21) Extortion, as defined in ORS 164.075.
- 32 (22) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 33 (23) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 34 (24) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 35 (25) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 36 (26) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 37 (27) Laundering a monetary instrument, as defined in ORS 164.170.
- 38 (28) Engaging in a financial transaction in property derived from unlawful activity, as defined
39 in ORS 164.172.
- 40 (29) Burglary in the second degree, as defined in ORS 164.215.
- 41 (30) Burglary in the first degree, as defined in ORS 164.225.
- 42 (31) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 43 (32) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 44 (33) Arson in the second degree, as defined in ORS 164.315.
- 45 (34) Arson in the first degree, as defined in ORS 164.325.

- 1 (35) Computer crime, as defined in ORS 164.377.
- 2 (36) Robbery in the third degree, as defined in ORS 164.395.
- 3 (37) Robbery in the second degree, as defined in ORS 164.405.
- 4 (38) Robbery in the first degree, as defined in ORS 164.415.
- 5 (39) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 6 (40) Unlawful recording of a live performance, as defined in ORS 164.869.
- 7 (41) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 8 (42) A violation of ORS 164.886.
- 9 (43)(a) Endangering aircraft in the first degree, as defined in ORS 164.885.
- 10 (b) Endangering aircraft in the second degree, as defined in ORS 164.885.
- 11 (44) Interference with agricultural operations, as defined in ORS 164.887.
- 12 (45) Forgery in the second degree, as defined in ORS 165.007.
- 13 (46) Forgery in the first degree, as defined in ORS 165.013.
- 14 (47) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 15 (48) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 16 (49) Criminal possession of a forgery device, as defined in ORS 165.032.
- 17 (50) Criminal simulation, as defined in ORS 165.037.
- 18 (51) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 19 (52) Fraudulent use of a credit card, as defined in ORS 165.055.
- 20 (53) Negotiating a bad check, as defined in ORS 165.065.
- 21 (54) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 22 (55) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 23 (56) Falsifying business records, as defined in ORS 165.080.
- 24 (57) Sports bribery, as defined in ORS 165.085.
- 25 (58) Sports bribe receiving, as defined in ORS 165.090.
- 26 (59) Misapplication of entrusted property, as defined in ORS 165.095.
- 27 (60) Issuing a false financial statement, as defined in ORS 165.100.
- 28 (61) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 29 (62) A violation of ORS 165.543.
- 30 (63) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 31 (64) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 32 (65) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 33 (66) Identity theft, as defined in ORS 165.800.
- 34 (67) A violation of ORS 166.190.
- 35 (68) Unlawful use of a weapon, as defined in ORS 166.220.
- 36 (69) A violation of ORS 166.240.
- 37 (70) Unlawful possession of a firearm, as defined in ORS 166.250.
- 38 (71) A violation of ORS 166.270.
- 39 (72) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
- 40 firearms silencer, as defined in ORS 166.272.
- 41 (73) A violation of ORS 166.275.
- 42 (74) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 43 (75) A violation of ORS 166.370.
- 44 (76) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 45 (77) Unlawful manufacture of a destructive device, as defined in ORS 166.384.

- 1 (78) Possession of a hoax destructive device, as defined in ORS 166.385.
- 2 (79) A violation of ORS 166.410.
- 3 (80) Providing false information in connection with a transfer of a firearm, as defined in ORS
- 4 166.416.
- 5 (81) Improperly transferring a firearm, as defined in ORS 166.418.
- 6 (82) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 7 (83) A violation of ORS 166.429.
- 8 (84) A violation of ORS 166.470.
- 9 (85) A violation of ORS 166.480.
- 10 (86) A violation of ORS 166.635.
- 11 (87) A violation of ORS 166.638.
- 12 (88) Unlawful paramilitary activity, as defined in ORS 166.660.
- 13 (89) A violation of ORS 166.720.
- 14 (90) Prostitution, as defined in ORS 167.007.
- 15 (91) Commercial sexual solicitation, as defined in ORS 167.008.
- 16 (92) Promoting prostitution, as defined in ORS 167.012.
- 17 (93) Compelling prostitution, as defined in ORS 167.017.
- 18 (94) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 19 (95) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 20 (96) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 21 (97) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 22 (98) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 23 (99) Possession of a gambling device, as defined in ORS 167.147.
- 24 (100) Possession of a gray machine, as defined in ORS 167.164.
- 25 (101) Cheating, as defined in ORS 167.167.
- 26 (102) Tampering with drug records, as defined in ORS 167.212.
- 27 (103) A violation of ORS 167.262.
- 28 (104) Research and animal interference, as defined in ORS 167.312.
- 29 (105) Animal abuse in the first degree, as defined in ORS 167.320.
- 30 (106) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 31 (107) Animal neglect in the first degree, as defined in ORS 167.330.
- 32 (108) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS
- 33 167.352.
- 34 (109) Involvement in animal fighting, as defined in ORS 167.355.
- 35 (110) Dogfighting, as defined in ORS 167.365.
- 36 (111) Participation in dogfighting, as defined in ORS 167.370.
- 37 (112) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 38 (113) Interference with livestock production, as defined in ORS 167.388.
- 39 (114) A violation of ORS 167.390.
- 40 (115) Participation in cockfighting, as defined in ORS 167.431.
- 41 (116) A violation of ORS 471.410.
- 42 (117) Failure to report missing precursor substances, as defined in ORS 475.955.
- 43 (118) Illegally selling drug equipment, as defined in ORS 475.960.
- 44 (119) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 45 (120) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.

- 1 (121) A violation of ORS 475.752, if it is a felony or a Class A misdemeanor.
- 2 (122) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 3 (123) A violation of ORS 475.916.
- 4 (124) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 5 (125) A violation of ORS 475.904.
- 6 (126) Misuse of an identification card, as defined in ORS 807.430.
- 7 (127) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
- 8 defined in ORS 807.500.
- 9 (128) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- 10 (129) Using an invalid license, as defined in ORS 807.580.
- 11 (130) Permitting misuse of a license, as defined in ORS 807.590.
- 12 (131) Using another's license, as defined in ORS 807.600.
- 13 (132) [*Criminal*] Driving while suspended or revoked **in the first degree**, as defined in ORS
- 14 811.182.
- 15 (133) Aggravated driving while suspended or revoked, as defined in ORS 163.196.
- 16 (134) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
- 17 felony.
- 18 (135) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 19 (136) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- 20 (137) A violation of ORS 180.440 (2) or 180.486 (2).
- 21 (138) A violation described in ORS 475.806 to 475.894, if it is a felony.
- 22 (139) Subjecting another person to involuntary servitude in the first degree, as defined in ORS
- 23 163.264.
- 24 (140) Subjecting another person to involuntary servitude in the second degree, as defined in ORS
- 25 163.263.
- 26 (141) Trafficking in persons, as defined in ORS 163.266.
- 27 (142) Luring a minor, as defined in ORS 167.057.
- 28 (143) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- 29 (144) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- 30 (145) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (144) of this
- 31 section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor.
- 32 **SECTION 8.** ORS 132.320 is amended to read:
- 33 132.320. (1) Except as provided in subsections (2) to (12) of this section, in the investigation of
- 34 a charge for the purpose of indictment, the grand jury shall receive no other evidence than such
- 35 as might be given on the trial of the person charged with the crime in question.
- 36 (2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician,
- 37 firearms identification expert, examiner of questioned documents, fingerprint technician, or an ex-
- 38 pert or technician in some comparable scientific or professional field, concerning the results of an
- 39 examination, comparison or test performed by such person in connection with a case which is the
- 40 subject of a grand jury proceeding, shall, when certified by such person as a report made by such
- 41 person or as a true copy thereof, be received in evidence in the grand jury proceeding.
- 42 (3) An affidavit of a witness who is unable to appear before the grand jury shall be received in
- 43 evidence in the grand jury proceeding if, upon application by the district attorney, the presiding
- 44 judge for the judicial district in which the grand jury is sitting authorizes the receipt after good
- 45 cause has been shown for the witness' inability to appear. An affidavit taken in another state or

1 territory of the United States, the District of Columbia or in a foreign country must be
 2 authenticated as provided in ORS chapter 194 before it can be used in this state.

3 (4) A grand jury that is investigating a charge of [*criminal*] driving while suspended or revoked
 4 **in the first degree** under ORS 811.182 may receive in evidence an affidavit of a peace officer with
 5 a report or copy of a report of the peace officer concerning the peace officer’s investigation of the
 6 violation of ORS 811.182 by the defendant.

7 (5) A grand jury may receive testimony of a witness by means of simultaneous television trans-
 8 mission allowing the grand jury and district attorney to observe and communicate with the witness
 9 and the witness to observe and communicate with the grand jury and the district attorney.

10 (6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992,
 11 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the de-
 12 fendant failed to appear as required by law and setting forth facts sufficient to support that con-
 13 clusion.

14 (7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence
 15 through the testimony of one peace officer involved in the criminal investigation under grand jury
 16 inquiry information from an official report of another peace officer involved in the same criminal
 17 investigation concerning the other peace officer’s investigation of the matter before the grand jury.
 18 The statement of a person suspected of committing an offense or inadmissible hearsay of persons
 19 other than the peace officer who compiled the official report may not be presented to a grand jury
 20 under this paragraph.

21 (b) If the official report contains evidence other than chain of custody, venue or the name of the
 22 person suspected of committing an offense, the grand jurors must be notified that the evidence is
 23 being submitted by report and that the peace officer who compiled the report will be made available
 24 for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace
 25 officer under this paragraph, the peace officer may present sworn testimony by telephone if requir-
 26 ing the peace officer’s presence before the grand jury would constitute an undue hardship on the
 27 peace officer or the agency that employs or utilizes the peace officer.

28 (8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS
 29 163A.040 may receive in evidence certified copies of the form required by ORS 163A.050 (2) and sex
 30 offender registration forms and an affidavit of a representative of the Oregon State Police, as
 31 keepers of the state’s sex offender registration records, certifying that the certified copies of the
 32 forms constitute the complete record for the defendant.

33 (9) The grand jury shall weigh all the evidence submitted to it; and when it believes that other
 34 evidence within its reach will explain away the charge, it should order such evidence to be
 35 produced, and for that purpose may require the district attorney to issue process for the witnesses.

36 (10) A grand jury that is investigating a charge of driving while under the influence of
 37 intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer re-
 38 garding any or all of the following:

- 39 (a) Whether the defendant was driving.
- 40 (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.
- 41 (c) The administration of tests under any provision of ORS chapter 813 and the results of such
 42 tests.
- 43 (d) The officer’s observations of physical or mental impairment of the defendant.

44 (11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial in-
 45 stitution for the purpose of authenticating records of the financial institution.

1 (b) As used in this subsection, “financial institution” means a financial institution as defined in
 2 ORS 706.008, an entity that regularly issues, processes or services credit cards or any other com-
 3 parable entity that regularly produces financial records.

4 (12)(a) A defendant who has been arraigned on an information alleging a felony charge that is
 5 the subject of a grand jury proceeding and who is represented by an attorney has a right to appear
 6 before the grand jury as a witness if, prior to the filing of an indictment, the defense attorney serves
 7 upon the district attorney written notice requesting the appearance. The notice shall include an
 8 electronic mail address at which the defense attorney may be contacted.

9 (b) A district attorney is not obligated to inform a defendant that a grand jury proceeding in-
 10 vestigating charges against the defendant is pending, in progress or about to occur.

11 (c) Upon receipt of the written notice described in paragraph (a) of this subsection, the district
 12 attorney shall provide in writing the date, time and location of the defendant’s appearance before
 13 the grand jury to the defense attorney at the indicated electronic mail address. In the event of a
 14 scheduling conflict, the district attorney shall reasonably accommodate the schedules of the de-
 15 fendant and the defense attorney if the accommodation does not delay the grand jury proceeding
 16 beyond the time limit for holding a preliminary hearing described in ORS 135.070 (2).

17 (d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection, in order to accommodate
 18 a scheduling conflict, upon the request of the defendant the time limit for holding a preliminary
 19 hearing described in ORS 135.070 (2) may be extended by a maximum of an additional five judicial
 20 days and the district attorney and the defendant may stipulate to an extension of greater duration.
 21 During a period of delay caused by a scheduling conflict under this subsection, ORS 135.230 to
 22 135.290 shall continue to apply concerning the custody status of the defendant.

23 **SECTION 9.** ORS 135.295 is amended to read:

24 135.295. Provision for release contained in ORS 135.230 to 135.290 shall not apply to any traffic
 25 offenses as defined for the Oregon Vehicle Code except the following:

- 26 (1) Reckless driving under ORS 811.140.
- 27 (2) Driving while under the influence of intoxicants under ORS 813.010.
- 28 (3) Failure to perform the duties of a driver under ORS 811.700 or 811.705.
- 29 (4) [*Criminal*] Driving while suspended or revoked **in the first degree** under ORS 811.182.
- 30 (5) Fleeing or attempting to elude a police officer under ORS 811.540.

31 **SECTION 10.** ORS 801.026 is amended to read:

32 801.026. (1) Persons, motor vehicles and equipment employed or used by a public or telecommu-
 33 nications utility, electric cooperative or by the United States, this state or any political subdivision
 34 of this state are exempt from the provisions of the vehicle code specified in subsection (3) of this
 35 section while on a highway and working or being used to service, construct, maintain or repair the
 36 facilities of a utility.

37 (2) Persons, motor vehicles and equipment employed or being used in the construction or re-
 38 construction of a street or highway are exempt from the provisions of the vehicle code specified in
 39 subsection (3) of this section if:

- 40 (a) They are within the immediate construction project as described in the governmental agency
 41 contract, if there is a contract; and
- 42 (b) The work is being done in an area that is signed in accordance with the manual adopted
 43 under ORS 810.200.

44 (3) Persons, motor vehicles and equipment described in subsections (1) and (2) of this section are
 45 exempt from provisions of the vehicle code relating to rules of the road as described in ORS chapter

1 811, except that this subsection does not apply to:

2 (a) Reckless driving, as defined in ORS 811.140.

3 (b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

4 (c) Failure to perform the duties of a driver involved in an accident or collision, as described
5 in ORS 811.700 or 811.705.

6 (d) [*Criminal*] Driving while suspended or revoked **in the first degree**, as defined in ORS
7 811.182.

8 (e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

9 (f) The provisions of ORS 811.145, 811.155, 811.170 and 811.175.

10 (4) Motor vehicles and equipment being used in the area and in the manner described in sub-
11 section (2) of this section are also exempt from the provisions of the vehicle code relating to vehicle
12 size and weight to the extent set out in the governmental agency contract.

13 (5) Devices moved exclusively on stationary rail tracks are exempt from the vehicle code.

14 (6) Devices that are powered exclusively by human power are not subject to those provisions
15 of the vehicle code that relate to vehicles. Notwithstanding this subsection, bicycles are generally
16 subject to the vehicle code as provided under ORS 814.400.

17 (7) The exemptions in subsection (3) of this section do not apply to the persons and vehicles
18 when traveling to or from the facilities or construction project.

19 **SECTION 11.** ORS 807.072 is amended to read:

20 807.072. (1) The Department of Transportation, by rule, may waive any examination, test or
21 demonstration required under ORS 807.065 (1)(b) or 807.070 (2) or (3) if the department receives
22 satisfactory proof that the person required to take the examination, test or demonstration has
23 passed an examination, test or demonstration approved by the department that:

24 (a) Is given in conjunction with a traffic safety education course certified by the department
25 under ORS 336.802;

26 (b) Is given in conjunction with a motorcycle rider education course established under ORS
27 802.320;

28 (c) Is given in conjunction with a course conducted by a commercial driver training school
29 certified by the department under ORS 822.515; or

30 (d) Is given in conjunction with an application for a special limited vision condition learner's
31 permit under ORS 807.359.

32 (2) The department, by rule, may waive the actual demonstration required under ORS 807.070
33 (3) for a person who is applying for a commercial driver license or a Class C license if the person
34 holds a valid out-of-state license or applies for an Oregon license within one year of the expiration
35 of a valid out-of-state license. A demonstration may be waived under this subsection only if the
36 person has applied for the same driving privileges as those granted under the person's out-of-state
37 license or for privileges granted by a lower class of license.

38 (3) The department may waive the actual demonstration required under ORS 807.070 for a per-
39 son who is applying for a commercial driver license or for an endorsement related to a commercial
40 driver license if the person submits to the department a certificate of competency issued under ORS
41 807.080 for the class of license or for the endorsement sought or under other circumstances, estab-
42 lished by the department by rule, that establish the person's ability to drive without an actual
43 demonstration.

44 (4) The department may issue a Class A farm endorsement without requiring additional tests to
45 a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to

1 the department that the person is experienced in driving a vehicle that may be driven only by per-
 2 sons who have a Class A commercial driver license and the person's two-part driving record does
 3 not show either a traffic accident within two years of the date of application for the endorsement
 4 or a conviction for one of the following traffic crimes within five years of the date of application for
 5 the endorsement:

6 (a) Reckless driving, as defined in ORS 811.140.

7 (b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

8 (c) Failure to perform the duties of a driver involved in an accident or collision, as described
 9 in ORS 811.700 or 811.705.

10 (d) [*Criminal*] Driving while suspended or revoked **in the first degree**, as defined in ORS
 11 811.182.

12 (e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

13 (5) The department may issue a Class B farm endorsement without requiring additional tests to
 14 a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to
 15 the department that the person is experienced in driving a vehicle that may be driven only by per-
 16 sons who have a Class B commercial driver license and the person's two-part driving record does
 17 not show either a conviction for a traffic crime specified in subsection (4) of this section within five
 18 years of the date of application for the endorsement or a traffic accident within two years of the
 19 date of application for the endorsement.

20 (6) The department by rule may establish other circumstances under which a farm endorsement
 21 may be issued without an actual demonstration. The authority granted by this subsection includes,
 22 but is not limited to, authority to adopt rules specifying circumstances under which the endorsement
 23 may be granted to a person despite the appearance of traffic accidents on the person's record.

24 (7) The department by rule may waive the test required under ORS 807.070 (2) for a person who
 25 applies for a motorcycle endorsement if the person:

26 (a) Holds a valid out-of-state driver license that authorizes the person to operate a motorcycle;
 27 or

28 (b) Applies for a motorcycle endorsement within one year after the expiration date of a valid
 29 out-of-state driver license that authorizes the person to operate a motorcycle.

30 **SECTION 12.** ORS 807.252 is amended to read:

31 807.252. (1) The Department of Transportation may not issue a hardship permit to a person
 32 whose driving privileges are suspended for conviction of assault in the second, third or fourth degree
 33 if the person, within 10 years preceding application for the permit, has been convicted of:

34 (a) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from
 35 the operation of a motor vehicle;

36 (b) Reckless driving, as defined in ORS 811.140;

37 (c) Driving while under the influence of intoxicants, as defined in ORS 813.010;

38 (d) Failure to perform the duties of a driver involved in an accident or collision, as described
 39 in ORS 811.700 or 811.705;

40 (e) [*Criminal*] Driving while suspended or revoked **in the first degree**, as defined in ORS
 41 811.182;

42 (f) Fleeing or attempting to elude a police officer, as defined in ORS 811.540; or

43 (g) Aggravated vehicular homicide, as defined in ORS 163.149, or aggravated driving while sus-
 44 pended or revoked, as defined in ORS 163.196.

45 (2) A conviction arising out of the same episode as the current suspension is not considered a

1 conviction for purposes of subsection (1) of this section.

2 (3) The department may not issue a hardship permit to a person whose driving privileges are
 3 suspended for a conviction of assault in the second, third or fourth degree:

4 (a) For a period of four years from the date the department suspends driving privileges if the
 5 person's driving privileges are suspended for conviction of assault in the second degree and the
 6 person was not incarcerated for that conviction.

7 (b) For a period of four years from the date the person is released from incarceration for the
 8 conviction if the person's driving privileges are suspended for conviction of assault in the second
 9 degree and the person was incarcerated for that conviction.

10 (c) For a period of two years from the date the department suspends driving privileges if the
 11 person's driving privileges are suspended for conviction of assault in the third degree and the person
 12 was not incarcerated for that conviction.

13 (d) For a period of two years from the date the person is released from incarceration for the
 14 conviction if the person's driving privileges are suspended for conviction of assault in the third de-
 15 gree and the person was incarcerated for that conviction.

16 (e) For a period of six months from the date the department suspends driving privileges if the
 17 person's driving privileges are suspended for conviction of assault in the fourth degree and the
 18 person is not incarcerated for that conviction.

19 (f) For a period of six months from the date the person is released from incarceration for the
 20 conviction if the person's driving privileges are suspended for conviction of assault in the fourth
 21 degree and the person was incarcerated for that conviction.

22 (4) A hardship permit issued to a person whose driving privileges are suspended because of a
 23 conviction for assault in the second, third or fourth degree shall limit the person's driving privileges:

24 (a) To the times, places, routes and days the department determines to be minimally necessary
 25 for the person to seek or retain employment, to attend any alcohol or drug treatment or rehabili-
 26 tation program or to obtain required medical treatment for the person or a member of the person's
 27 immediate family; and

28 (b) To times, places, routes and days that are specifically stated.

29 (5) The person's driving privileges under the permit are subject to suspension or revocation if
 30 the person does not maintain a good driving record, as defined by the administrative rules of the
 31 department, during the term of the permit.

32 (6) The department may require the person to complete a driver improvement program under
 33 ORS 809.480 as a condition of the permit.

34 (7) The department shall condition the permit so that the permit will be revoked if the person
 35 is convicted of any of the following:

36 (a) Reckless driving under ORS 811.140.

37 (b) Driving while under the influence of intoxicants under ORS 813.010.

38 (c) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

39 (d) Fleeing or attempting to elude a police officer under ORS 811.540.

40 (e) Driving while suspended or revoked under ORS 811.175 or 811.182.

41 (f) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from
 42 the operation of a motor vehicle.

43 (g) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended
 44 or revoked under ORS 163.196.

45 **SECTION 13.** ORS 809.600 is amended to read:

1 809.600. This section establishes the kinds of offenses and the number of convictions necessary
 2 to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The kinds
 3 of offenses and the number of convictions necessary to revoke driving privileges as a habitual
 4 offender are as follows:

5 (1) A person's driving privileges shall be revoked as a habitual offender if the person, within a
 6 five-year period, has been convicted of three or more of any one or more of the following offenses
 7 as evidenced by the records maintained by the Department of Transportation or by the records of
 8 a similar agency of another state:

9 (a) Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly en-
 10 dangering another person, menacing or criminal mischief resulting from the operation of a motor
 11 vehicle.

12 (b) Driving while under the influence of intoxicants under ORS 813.010.

13 (c) [*Criminally*] Driving [*a motor vehicle*] while suspended or revoked **in the first degree**, under
 14 ORS 811.182.

15 (d) Reckless driving under ORS 811.140.

16 (e) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

17 (f) Fleeing or attempting to elude a police officer under ORS 811.540.

18 (g) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended
 19 or revoked under ORS 163.196.

20 (2) A person's driving privileges shall be revoked as a habitual offender if the person, within a
 21 five-year period, has been convicted of 20 or more of any one or more of the following offenses as
 22 evidenced by the records maintained by the department or by a similar agency of another state:

23 (a) Any offenses enumerated in subsection (1) of this section.

24 (b) Any offense specified in the rules of the department adopted under ORS 809.605.

25 (3) A person's driving privileges shall not be revoked under subsection (2) of this section until
 26 the person's 21st conviction within a five-year period when the 20th conviction occurs after a lapse
 27 of two years or more from the last preceding conviction.

28 (4) The offenses described under this section include any of the following:

29 (a) Any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation that
 30 substantially conforms to offenses described under this section.

31 (b) Any violation of offenses under any federal law or any law of another state, including sub-
 32 divisions thereof, that substantially conform to offenses described in this section.

33 **SECTION 14.** ORS 809.740 is amended to read:

34 809.740. (1) A motor vehicle may be seized for forfeiture if the person operating the motor ve-
 35 hicle is arrested or issued a citation for [*criminal*] driving while suspended or revoked **in the first**
 36 **degree** under ORS 811.182 or aggravated driving while suspended or revoked under ORS 163.196,
 37 and the person, within three years prior to the arrest or issuance of the citation, has been convicted
 38 of:

39 (a) [*Criminal*] Driving while suspended or revoked **in the first degree** under ORS 811.182; or

40 (b) Aggravated driving while suspended or revoked under ORS 163.196.

41 (2) All seizure and forfeiture proceedings under this section shall be conducted in accordance
 42 with ORS chapter 131A.

43 **SECTION 15.** ORS 810.530 is amended to read:

44 810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense
 45 described in this subsection is committed may arrest or issue a citation for the offense in the same

1 manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a
 2 police officer. This subsection applies to the following offenses:

- 3 (a) Violation of maximum weight limits under ORS 818.020.
- 4 (b) Violation of posted weight limits under ORS 818.040.
- 5 (c) Violation of administratively imposed weight or size limits under ORS 818.060.
- 6 (d) Violation of maximum size limits under ORS 818.090.
- 7 (e) Exceeding maximum number of vehicles in combination under ORS 818.110.
- 8 (f) Violation of posted limits on use of road under ORS 818.130.
- 9 (g) Violation of towing safety requirements under ORS 818.160.
- 10 (h) Operating with sifting or leaking load under ORS 818.300.
- 11 (i) Dragging objects on highway under ORS 818.320.
- 12 (j) Unlawful use of devices without wheels under ORS 815.155.
- 13 (k) Unlawful use of metal objects on tires under ORS 815.160.
- 14 (L) Operation without pneumatic tires under ORS 815.170.
- 15 (m) Operation in violation of vehicle variance permit under ORS 818.340.
- 16 (n) Failure to carry and display permit under ORS 818.350.
- 17 (o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.
- 18 (p) Violation of any provision of ORS chapter 825.
- 19 (q) Operation without proper fenders or mudguards under ORS 815.185.
- 20 (r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is
 21 operating a commercial motor vehicle and the person does not have commercial driving privileges.
- 22 (s) [*Violation*] Driving while suspended or revoked **in the second degree** in violation of ORS
 23 811.175 if the person is operating a commercial motor vehicle while the person's commercial driving
 24 privileges are suspended or revoked.
- 25 (t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is
 26 operating a motor vehicle subject to ORS chapter 825 or 826.

27 (2) A weighmaster or motor carrier enforcement officer in whose presence an offense described
 28 in this subsection is committed by a person operating a commercial motor vehicle may issue a ci-
 29 tation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that
 30 an offense described in this subsection has been committed by a person operating a commercial
 31 motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation
 32 for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this
 33 subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation
 34 issued under this subsection to the operator of a commercial motor vehicle shall be considered to
 35 have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not
 36 the owner. This subsection applies to the following offenses, all of which are Class A traffic vio-
 37 lations under ORS 825.990 (1):

- 38 (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.
- 39 (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service
 40 authorized by certificate.
- 41 (c) Refusing or failing to file the annual report as required by ORS 825.320.
- 42 (d) Refusing or failing to maintain records required by the department or to produce such re-
 43 cords for examination as required by the department.
- 44 (e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under
 45 investigation.

1 (f) Filing with the department an application that is false with regard to the ownership, pos-
2 session or control of the equipment being used or the operation being conducted.

3 (g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS
4 chapter 825 or 826.

5 (h) Refusing or failing to file a deposit or bond as required under ORS 825.506.

6 (i) Failing to comply with the applicable requirements for attendance at a motor carrier educa-
7 tion program as required by ORS 825.402.

8 (3) A weighmaster or motor carrier enforcement officer who finds evidence that a person oper-
9 ating a commercial motor vehicle has committed the offense of failure to pay the appropriate reg-
10 istration fee under ORS 803.315 may issue a citation for the offense in the same manner as under
11 ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.

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

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

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

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

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

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

30 **SECTION 16.** ORS 811.230 is amended to read:

31 811.230. (1) As used in ORS 811.230, 811.231, 811.232 and 811.233:

32 (a) "Flagger" means a person who controls the movement of vehicular traffic through con-
33 struction projects using sign, hand or flag signals.

34 (b) "Highway work zone" means an area identified by advance warning where road construction,
35 repair or maintenance work is being done by highway workers on or adjacent to a highway, re-
36 gardless of whether or not highway workers are actually present. As used in this paragraph, "road
37 construction, repair or maintenance work" includes, but is not limited to, the setting up and dis-
38 mantling of advance warning systems.

39 (c) "Highway worker" means an employee of a government agency, private contractor or utility
40 company working in a highway work zone.

41 (2)(a) The presumptive fine for a person convicted of an offense that is listed in subsection (3)(a)
42 or (b) of this section and that is committed in a highway work zone is the presumptive fine for the
43 offense established under ORS 153.020.

44 (b) The minimum fine for a person convicted of a misdemeanor offense that is listed in sub-
45 section (3)(c) to (g) of this section and that is committed in a highway work zone is 20 percent of

1 the maximum fine established for the offense.

2 (c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c)
 3 to (g) of this section and that is committed in a highway work zone is two percent of the maximum
 4 fine established for the offense.

5 (3) This section applies to the following offenses if committed in a highway work zone:

6 (a) Class A or Class B traffic violations.

7 (b) Class C or Class D traffic violations related to exceeding a legal speed.

8 (c) Reckless driving, as defined in ORS 811.140.

9 (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

10 (e) Failure to perform the duties of a driver involved in an accident or collision, as described
 11 in ORS 811.700 or 811.705.

12 (f) [*Criminal*] Driving while suspended or revoked **in the first degree**, as defined in ORS
 13 811.182.

14 (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

15 (4) When a highway work zone is created, the agency, contractor or company responsible for the
 16 work may post signs designed to give motorists notice of the provisions of this section.

17 **SECTION 17.** ORS 811.235 is amended to read:

18 811.235. (1)(a) If signs authorized by ORS 810.245 are posted, the presumptive fine for a person
 19 charged with an offense that is listed in subsection (2)(a) or (b) of this section and that is committed
 20 in a school zone shall be the amount established under ORS 153.020 for the offense.

21 (b) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of
 22 a misdemeanor offense that is listed in subsection (2)(c) to (g) of this section and that is committed
 23 in a school zone is 20 percent of the maximum fine established for the offense.

24 (c) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of
 25 a felony offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a
 26 school zone is two percent of the maximum fine established for the offense.

27 (2) This section applies to the following offenses if committed in a school zone:

28 (a) Class A or Class B traffic violations.

29 (b) Class C or Class D traffic violations related to exceeding a legal speed.

30 (c) Reckless driving, as defined in ORS 811.140.

31 (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

32 (e) Failure to perform the duties of a driver involved in an accident or collision, as described
 33 in ORS 811.700 or 811.705.

34 (f) [*Criminal*] Driving while suspended or revoked **in the first degree**, as defined in ORS
 35 811.182.

36 (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

37 (3) For purposes of this section, a traffic offense occurs in a school zone if the offense occurs
 38 while the motor vehicle is in a school zone, notice of the school zone is indicated plainly by traffic
 39 control devices conforming to the requirements established under ORS 810.200 and posted under
 40 authority granted by ORS 810.210 and:

41 (a) Children are present as described in ORS 811.124; or

42 (b) A flashing light is used as a traffic control device and operated as provided under ORS
 43 810.243.

44 **SECTION 18.** ORS 811.483 is amended to read:

45 811.483. (1) The Department of Transportation shall post signs in safety corridors chosen by the

1 department indicating that fines for traffic offenses committed in those safety corridors will be
 2 doubled.

3 (2)(a) The presumptive fine for a person charged with an offense that is listed in subsection (3)(a)
 4 or (b) of this section and that is committed in a safety corridor chosen by the department under
 5 subsection (1) of this section shall be the amount established under ORS 153.020.

6 (b) The minimum fine for a person convicted of a misdemeanor offense that is listed in sub-
 7 section (3)(c) to (g) of this section and that is committed in a safety corridor is 20 percent of the
 8 maximum fine established for the offense.

9 (c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c)
 10 to (g) of this section and that is committed in a safety corridor is two percent of the maximum fine
 11 established for the offense.

12 (3) This section applies to the following offenses if committed in the designated safety corridors:

13 (a) Class A or Class B traffic violations.

14 (b) Class C or Class D traffic violations related to exceeding a legal speed.

15 (c) Reckless driving, as defined in ORS 811.140.

16 (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

17 (e) Failure to perform the duties of a driver involved in an accident or collision, as described
 18 in ORS 811.700 or 811.705.

19 (f) [*Criminal*] Driving while suspended or revoked **in the first degree**, as defined in ORS
 20 811.182.

21 (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

22 **SECTION 19.** ORS 813.130 is amended to read:

23 813.130. This section establishes the requirements for information about rights and consequences
 24 for purposes of ORS 813.100 and 813.410. The following apply to the information about rights and
 25 consequences:

26 (1) The information about rights and consequences shall be substantially in the form prepared
 27 by the Department of Transportation. The department may establish any form it determines appro-
 28 priate and convenient.

29 (2) The information about rights and consequences shall be substantially as follows:

30 (a) Driving under the influence of intoxicants is a crime in Oregon, and the person is subject
 31 to criminal penalties if a test under ORS 813.100 shows that the person is under the influence of
 32 intoxicants. If the person refuses a test or fails, evidence of the refusal or failure may also be offered
 33 against the person.

34 (b) The person will fail a test under ORS 813.100 for purposes of criminal penalties if the test
 35 discloses a blood alcohol content of 0.08 percent or more by weight. The person will fail a test for
 36 purposes of the Motorist Implied Consent Law if the test discloses a blood alcohol content of:

37 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

38 (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

39 (C) Any amount if the person was under 21 years of age.

40 (c) If the person refuses or fails a test under ORS 813.100, the person's driving privileges will
 41 be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will
 42 not affect the suspension. The suspension will be substantially longer if the person refuses a test.

43 (d) If the person refuses a test or fails a breath test under ORS 813.100 and has an Oregon
 44 driver license or permit, the license or permit will be taken immediately and, unless the person does
 45 not currently have full valid driving privileges, a temporary driving permit will be issued to the

1 person.

2 (e) If the person refuses a test under ORS 813.100, the person is not eligible for a hardship
3 permit for at least [90] 30 days, and possibly for three years, depending on the following factors set
4 forth in ORS 813.430:

5 (A) Whether the person is presently participating in a driving while under the influence of
6 intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program
7 in this or another jurisdiction; or

8 (B) Whether within the five years preceding the date of arrest any of the following occurred:

9 (i) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replace-
10 ment Part) became effective;

11 (ii) The person was convicted of driving while under the influence of intoxicants in violation of
12 ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction, as described in
13 ORS 813.430;

14 (iii) The person was convicted of driving while under the influence of intoxicants in violation
15 of a municipal ordinance in this state or another jurisdiction, as described in ORS 813.430; or

16 (iv) The person commenced participating in a driving while under the influence of intoxicants
17 diversion program in this state or in any similar alcohol or drug rehabilitation program in this or
18 another jurisdiction, as described in ORS 813.430.

19 (f) If the person refuses a breath test under ORS 813.100, or refuses a urine test under ORS
20 813.131 and 813.132, the person is subject to a fine of at least \$500 and not more than \$1,000.

21 (g) After taking a test under ORS 813.100, the person will have a reasonable opportunity, upon
22 request, for an additional chemical test for blood alcohol content to be performed at the person's
23 own expense by a qualified individual of the person's choosing.

24 (h) The person has a right to a hearing to challenge the validity of the suspension before the
25 suspension becomes effective. The person must make a written request to the department for such
26 a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended.
27 If the person loses at the hearing, the suspension will remain in effect during any court review of
28 the hearing.

29 (i) If the person is issued a temporary driving permit under ORS 813.100, the information pro-
30 vided to the person shall include the number of hours before the driving permit will be effective and
31 the number of days the permit will be effective.

32 (j) The information provided to the person shall include the number of days within which a
33 person must request a hearing under ORS 813.410.

34 (k) The information provided to the person shall include the number of days within which a
35 hearing under ORS 813.410 will be held.

36 (L) The person may possibly qualify for a hardship permit in 30 days if the person fails a test,
37 depending on the person's driving record.

38 (3) If the person is driving a commercial motor vehicle, the information about rights and con-
39 sequences shall include, in addition to the provisions of subsection (2) of this section, substantially
40 the following:

41 (a) If the person refuses a test under ORS 813.100 or submits to a breath or blood test and the
42 level of alcohol in the person's blood is 0.04 percent or more by weight, the person's commercial
43 driving privileges or right to apply for commercial driving privileges will be suspended and no
44 hardship permit authorizing the person to drive a commercial motor vehicle will be issued. The
45 suspension will be substantially longer if the person refuses a test.

1 (b) The suspension of the person’s commercial driving privileges or right to apply for commercial
2 driving privileges will be for the person’s lifetime if the person refuses a test under ORS 813.100 or
3 submits to a breath or blood test and the level of alcohol in the person’s blood is 0.04 percent or
4 more by weight and:

5 (A) The person previously has been convicted of failure to perform the duties of a driver;

6 (B) The person previously has been convicted of a crime punishable as a felony and the person
7 was driving a motor vehicle at the time the offense was committed;

8 (C) The person previously has been convicted of driving a commercial motor vehicle while the
9 person’s commercial driving privileges or right to apply for commercial driving privileges was sus-
10 pended or revoked for offenses committed while operating a commercial motor vehicle;

11 (D) The person previously has been convicted of any degree of murder, manslaughter or
12 criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault
13 in the first degree resulting from the operation of a commercial motor vehicle;

14 (E) The person previously has been convicted of driving while under the influence of intoxicants;

15 (F) The person’s commercial driving privileges previously have been suspended or revoked for
16 refusal to submit to, or failure of, a breath or blood test under ORS 813.100; or

17 (G) The person’s right to apply for commercial driving privileges previously has been suspended
18 or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting
19 from the operation of a commercial motor vehicle.

20 (4) Nothing in this section prohibits the department from providing additional information con-
21 cerning rights and consequences that the department considers convenient or appropriate.

22 **SECTION 20.** ORS 813.604 is amended to read:

23 813.604. (1) When a court orders installation of an ignition interlock device pursuant to ORS
24 813.602, the court shall send a copy of the order to the Department of Transportation. The depart-
25 ment shall note the requirement on the driving record of the person required to install the device.

26 (2) The department may not issue a hardship permit under ORS 807.240 to any person who is
27 ordered to install an ignition interlock device on the person’s vehicle until the person furnishes the
28 department satisfactory proof that the device has been installed on any vehicle owned or operated
29 by the person. The department shall determine by rule what constitutes satisfactory proof under this
30 subsection.

31 (3) When the department issues a hardship permit to a person who is required to have an ig-
32 nition interlock device, the department shall note on the permit that the device is required. The
33 notation constitutes a limitation on the permit and a person who violates the limitation is
34 punishable as provided in ORS 811.182 for *criminal* driving while suspended or revoked **in the first**
35 **degree.**

36
37 **APPLICABILITY**

38
39 **SECTION 21.** The amendments to ORS 131.602, 132.320, 135.295, 801.026, 807.072, 807.240,
40 807.252, 809.600, 809.740, 810.530, 811.175, 811.182, 811.230, 811.235, 811.483, 813.130, 813.500,
41 813.510, 813.520 and 813.604 by sections 1 to 20 of this 2017 Act apply to conduct occurring on
42 or after the effective date of this 2017 Act.

43
44 **CAPTIONS**

1 **SECTION 22.** The unit captions used in this 2017 Act are provided only for the conven-
2 ience of the reader and do not become part of the statutory law of this state or express any
3 legislative intent in the enactment of this 2017 Act.

4
