

Enrolled
Senate Bill 252

Sponsored by Senator TAYLOR; Senator MANNING JR, Representative KENNEMER (Pre-session filed.)

CHAPTER

AN ACT

Relating to driving privileges; creating new provisions; and amending ORS 807.240, 807.250, 807.252, 813.500 and 813.510.

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

SECTION 1. ORS 807.240 is amended to read:

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

(1) The department may only issue a permit to a person whose driving privileges under the vehicle code have been suspended.

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

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

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

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

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

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

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

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

(E) That the person's driving privileges are suspended for driving uninsured in violation of ORS 806.010 or for violation of ORS 165.805 or 471.430 and are not suspended for any other reason and that the person must operate a motor vehicle in order to provide necessary services to the person

or to a member of the person's family. The department shall determine by rule what constitutes necessary services for purposes of this subparagraph. The rule shall include as necessary services, but need not be limited to, grocery shopping, driving the person or the person's children to school, driving to medical appointments and caring for elderly family members[.]; **or**

(F) That the person must operate a motor vehicle to get to or from a gambling addiction treatment program.

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

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

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

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

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

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

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

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

(6) The fee charged for application or issuance of a hardship driver permit is the hardship driver permit application fee under ORS 807.370. The department may not refund the fee if the application is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit is the same fee as that charged for renewal of a license. The application fee charged under this subsection is in addition to any fee charged for reinstatement of driving privileges under ORS 807.370.

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

SECTION 2. ORS 807.250 is amended to read:

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

(a) ORS 811.140.

(b) ORS 811.540.

(c) Driving while under the influence of intoxicants. If a person's driving privileges are suspended for a conviction for driving while under the influence of intoxicants and the person is de-

terminated under ORS 813.500 to have a problem condition involving alcohol, inhalants or controlled substances as described in ORS 813.040, the judge must:

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

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

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

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

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

SECTION 3. ORS 807.252 is amended to read:

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

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

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

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

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

(e) Criminal driving while suspended or revoked, as defined in ORS 811.182;

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

(g) Aggravated vehicular homicide, as defined in ORS 163.149, or aggravated driving while suspended or revoked, as defined in ORS 163.196.

(2) A conviction arising out of the same episode as the current suspension is not considered a conviction for purposes of subsection (1) of this section.

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

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

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

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

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

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

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

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

(a) To the times, places, routes and days the department determines to be minimally necessary for the person to seek or retain employment, to attend any **gambling addiction**, alcohol or drug treatment or rehabilitation program or to obtain required medical treatment for the person or a member of the person's immediate family; and

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

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

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

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

(a) Reckless driving under ORS 811.140.

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

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

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

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

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

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

SECTION 4. ORS 813.500 is amended to read:

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

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

(b) Complies with the requirements of this section.

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

(a) The person enrolled in a program for rehabilitation for alcoholism or drug dependence approved by the authority.

(b) The authority recommends, on the basis of the person's progress in the rehabilitation program, such reinstatement in writing to the department. If the authority makes a recommendation under this paragraph, the authority shall state specifically in the recommendation the times, places, routes and days of the week minimally necessary for the person to seek or retain employment, to attend any alcohol or drug treatment or rehabilitation program or to obtain necessary medical treatment for the person or a member of the person's immediate family.

(3) The person may use the hardship permit to get to or from a gambling addiction treatment program, in addition to the places listed in subsection (2) of this section.

[3] (4) If the authority determines that the person does not have a problem condition involving alcohol, inhalants or controlled substances as described in ORS 813.040, the department may issue the permit to the person only if, in addition to any requirements under ORS 807.240, the person enters an alcohol or drug information program approved by the authority and the department determines that issuance of a permit is appropriate. If the department issues a permit to a person described in this subsection, the department shall require, under ORS 807.240, that the person complete the program as a condition of retaining the permit.

SECTION 5. ORS 813.510 is amended to read:

813.510. This section establishes limitations that the Department of Transportation is required or permitted to place on hardship permits issued under ORS 807.240 to persons whose suspension is based upon a conviction for driving under the influence of intoxicants or upon ORS 813.100. Limitations placed on a hardship permit under this section are in addition to any limitations placed on the permit under ORS 807.240. A person's permit is subject to suspension or revocation as provided under ORS 807.240 if the department determines that the holder of the permit has violated any limitation placed upon the permit under this section. Violation of a limitation under this section is punishable as provided by ORS 811.175 or 811.182. The limitations are as described in the following:

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

(a) To the times, places, routes and days the department determines to be minimally necessary for the person to seek or retain employment, to attend any **gambling addiction**, alcohol or drug treatment or rehabilitation program or to obtain required medical treatment for the person or a member of the person's immediate family; and

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

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

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

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

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

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

(a) Reckless driving under ORS 811.140.

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

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

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

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

SECTION 6. The amendments to ORS 807.240, 807.250, 807.252, 813.500 and 813.510 by sections 1 to 5 of this 2017 Act apply to permits issued on or after the effective date of this 2017 Act.

Passed by Senate February 23, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 1, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State