

Requested by Representative OLSON

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2638**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert
2 “807.270, 809.390.”

3 On page 3, line 45, after “807.240” insert “or probationary driver permits
4 under ORS 807.270”.

5 On page 4, line 32, before the period insert “or as a condition of a
6 probationary driver permit”.

7 On page 6, line 21, before “hardship” insert “probationary driver permit
8 or a”.

9 In line 22, before the first “hardship” insert “probationary driver permit
10 or the” and delete the second “hardship”.

11 On page 9, after line 8, insert:

12 **“SECTION 14a. Section 14b of this 2017 Act is added to and made a
13 part of ORS chapter 813.**

14 **“SECTION 14b. (1) Notwithstanding ORS 809.235, a person whose
15 driving privileges are revoked under ORS 809.235 (1)(b) may file a pe-
16 tition in the circuit court of the county in which the person’s driving
17 privileges were revoked for an order permitting the person to apply for
18 a probationary driver permit under ORS 807.270. A petition may be
19 filed under this subsection no sooner than five years after the person
20 is:**

21 **“(a) Released on parole or post-prison supervision for the crime for**

1 which the person's driving privileges were revoked and any other
2 crimes arising out of the same criminal episode;

3 “(b) Sentenced to probation for the crime for which the person's
4 driving privileges were revoked, unless the probation is revoked, in
5 which case the petition may be filed no sooner than five years after
6 the date probation is revoked; or

7 “(c) Sentenced for the crime for which the person's driving privi-
8 leges were revoked, if no other provision of this subsection applies.

9 “(2) Notwithstanding subsection (1) of this section, if during the
10 revocation period for the crime for which the person was convicted the
11 person is convicted of a crime involving a motor vehicle, the person
12 may file a petition to apply for a probationary driver permit as de-
13 scribed in subsection (1) of this section no sooner than five years after
14 the date of the most recent conviction involving a motor vehicle.

15 “(3) The district attorney of the county in which the person's driv-
16 ing privileges were revoked shall be named and served as the re-
17 spondent in the petition.

18 “(4) The court shall hold a hearing on a petition filed in accordance
19 with subsection (1) of this section. In determining whether to grant
20 the petition, the court shall consider the following:

21 “(a) The nature of the crime for which driving privileges were re-
22 voked.

23 “(b) Other criminal and relevant noncriminal behavior of the
24 petitioner both before and after the conviction that resulted in the
25 revocation.

26 “(c) The recommendation of the person's parole officer or probation
27 officer, which shall be based in part on a psychological evaluation or-
28 dered by the court to determine whether the person is presently a
29 threat to the safety of the public.

30 “(d) Any other relevant factors.

1 “(5) A court may not grant an order permitting a person to apply
2 to the Department of Transportation for a probationary driver permit
3 under ORS 807.270 if the crime for which the person’s driving privileges
4 were revoked under ORS 809.235 (1)(b) caused physical injury to an-
5 other person.

6 “(6) The court shall grant an order permitting a person to apply for
7 a probationary driver permit under ORS 807.270 if, after a hearing de-
8 scribed in subsection (4) of this section, the court finds clear and
9 convincing evidence that the petitioner:

10 “(a) Is rehabilitated;

11 “(b) Does not pose a threat to the safety of the public; and

12 “(c) If the sentence for the crime for which the petitioner’s driving
13 privileges were revoked required the petitioner to complete an alcohol
14 or drug treatment program, has completed an alcohol or drug treat-
15 ment program in a facility approved by the Director of the Oregon
16 Health Authority or a similar program in another jurisdiction.

17 “(7) Upon receiving a court order under this section, the person
18 may apply for a probationary driver permit under ORS 807.270. The
19 department may issue a probationary driver permit in accordance with
20 ORS 807.270, except that the department may not issue the
21 probationary driver permit until the person complies with future re-
22 sponsibility filings and files a copy of the court order with the de-
23 partment.

24 “(8) If the court receives a negative report under ORS 813.630 from
25 the ignition interlock device of a probationary driver permit holder,
26 the court shall give notice of the negative report to the department.
27 Notwithstanding ORS 813.635, after receiving notice of a negative re-
28 port the department shall revoke the probationary driver permit.

29 “SECTION 14c. ORS 809.390 is amended to read:

30 “809.390. All of the following apply to a person whose driving privileges

1 have been revoked:

2 “(1) The period of revocation shall last as long as required for the revo-
3 cation by law.

4 “(2) **Except as provided in ORS 807.270 and subsection (3) of this**
5 **section, the Department of Transportation may not issue any driver**
6 **permit, including a hardship permit described under ORS 807.240, to a**
7 **person whose driving privileges or right to apply for driving privileges**
8 **are revoked.**

9 “[2] (3) During the period of revocation, the person is not entitled to
10 exercise any driving privileges in this state or to apply for or receive any
11 driving privileges in this state except **as follows:**

12 “(a) When a person who has been determined to be a habitual offender
13 is permitted to obtain driving privileges under a probationary [*driving*]
14 **driver** permit as described under ORS 807.270 and 809.650. [*This subsection*
15 *prohibits the issuance of any driver permit, including a hardship permit de-*
16 *scribed under ORS 807.240, to a person whose driving privileges or right to*
17 *apply for driving privileges are revoked except as provided for the probationary*
18 *driving permit under ORS 807.270.*]

19 “(b) **When a person whose driving privileges are revoked under ORS**
20 **809.235 (1)(b) is permitted to obtain driving privileges under a**
21 **probationary driver permit as described under ORS 807.270 and section**
22 **14b of this 2017 Act.**

23 “[3] (4) Upon expiration of the revocation period, the person must re-
24 apply for driving privileges in the manner established by law and must re-
25 establish the person’s eligibility for issuance of driving privileges. If driving
26 privileges are revoked because the person is a habitual offender, the person
27 must meet the additional eligibility requirements for reinstatement of driving
28 privileges under ORS 809.650 and 809.660.

29 “[4] (5) The department [*of Transportation*] may issue new driving priv-
30 iliges to a person before the expiration of the revocation period if the person

1 is otherwise entitled to be issued driving privileges and when, with reference
2 to a conviction upon which the revocation was based, the Governor has
3 pardoned the person of the crime.

4 “[5] (6) The department [*shall*] **may** not issue any driving privileges in
5 contradiction to this section.

6 “[6] (7) If the person fails to surrender to the department any license
7 or driver permit issued as evidence of driving privileges that are revoked, the
8 person is subject to the penalty under ORS 809.500.

9 “[7] (8) [*No*] **A** reinstatement of revoked driving privileges [*will*] **may**
10 **not** be made by the department until the fee for reinstatement of revoked
11 driving privileges established under ORS 807.370 is paid to or waived by the
12 department. The department may waive the reinstatement fee if the depart-
13 ment committed an error in issuing the revocation.

14 **“SECTION 14d.** ORS 807.270 is amended to read:

15 “807.270. The Department of Transportation shall provide for issuance of
16 probationary driver permits in a manner consistent with this section. A
17 probationary driver permit grants the driving privileges provided in this
18 section or under the permit. Except as otherwise provided in this section, a
19 probationary driver permit is subject to the fees, provisions, conditions,
20 prohibitions and penalties applicable to a Class C license. The following
21 apply to a probationary driver permit:

22 “(1) The department may issue a probationary driver permit to a person:

23 “(a) Whose driving privileges have been revoked as a habitual offender
24 under ORS 809.640.

25 “(b) **Whose driving privileges have been revoked under ORS 809.235**
26 **(1)(b) and who has been granted a court order under section 14b of this**
27 **2017 Act.**

28 “(2) The department may issue a probationary driver permit that is valid
29 for the duration of the revocation period unless the permit is suspended or
30 revoked.

1 “(3) A probationary driver permit may only be issued to a person while
2 that person’s driving privileges and right to apply for driving privileges are
3 otherwise revoked under **the following**:

4 “(a) ORS 809.640 because the person has been determined to be a habitual
5 offender.

6 “(b) **ORS 809.235 (1)(b)**.

7 “(4) The department may not issue a probationary driver permit author-
8 izing operation of a commercial motor vehicle.

9 “(5) The fee charged for application or issuance of a probationary driver
10 permit is the probationary driver permit application fee under ORS 807.370.
11 The department may not refund the fee if the application is denied or if the
12 driver permit is suspended or revoked. The application fee charged under this
13 subsection is in addition to any fee charged for reinstatement of driving
14 privileges under ORS 807.370.

15 “(6) Before an applicant may be issued a probationary driver permit, the
16 applicant must meet the following qualifications in addition to any other
17 qualifications for the permit:

18 “(a) The applicant must successfully complete a driver improvement
19 course approved by the department; *[and]*

20 “(b) The applicant must submit a report of a diagnostic examination
21 conducted by a private physician showing to the satisfaction of the depart-
22 ment that the applicant is physically and mentally competent to safely op-
23 erate a motor vehicle[.]; **and**

24 “(c) **If the applicant’s driving privileges are revoked under ORS**
25 **809.235 (1)(b), the applicant shall submit an order from the court, is-**
26 **sued pursuant to section 14b of this 2017 Act, permitting the person**
27 **to apply for the probationary driver permit.**

28 “(7) A person who is issued a probationary driver permit must continually
29 satisfy the conditions of the permit.

30 “(8) If a person issued a probationary driver permit is convicted of one

1 offense described in ORS 809.600 (1) or more than one offense described in
2 ORS 809.600 (2) within any 12-month period, the permit shall be revoked and
3 no license or permit may be issued for one year from the date of the revo-
4 cation.

5 “(9) The department may establish by rule additional limitations for a
6 probationary driver permit. The limitations may include any limitation,
7 condition or requirement. Violation of a limitation is punishable as provided
8 by ORS 811.175 and 811.182.

9 “(10) Upon receiving satisfactory evidence of any violation of the limita-
10 tions placed on a probationary driver permit under this section, the depart-
11 ment may suspend or revoke the probationary driver permit.”.

12 On page 12, line 3, delete “and 10” and insert “, 10, 14a and 14b” and after
13 “ORS” insert “807.270, 809.390,”.

14 In line 4, delete “and 11 to 14” and insert “, 11 to 14, 14c and 14d”.

15 In line 9, delete “and 10” and insert “, 10, 14a and 14b”.

16 In line 10, after “ORS” insert “807.270, 809.390,”.

17 In line 11, delete “and 11 to 14” and insert “, 11 to 14, 14c and 14d”.

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