



Oregon

Kate Brown, Governor

Department of Transportation

Director's Office

355 Capitol St. NE, MS 11

Salem, OR 97301

DATE: February 26, 2018

TO: House Committee on Judiciary

FROM: Amy Joyce, Legislative Liaison

SUBJECT: SB 1538-A, driver license suspensions and hardship permits

INTRODUCTION

HB 1538-A will eliminate several driver license suspensions for non-driving related offenses, and will streamline the requirements for hardship permits to operate a vehicle while suspended.

BACKGROUND

At any one time, Oregon has about 650,000 people with suspended driving privileges – with 2.6 million active suspensions – on their record. Each year DMV processes roughly 360,000 suspensions on over 200,000 individual drivers.

Oregon law requires license suspension for many driving-related offenses such as DUII, and the Driver Improvement Program that requires administrative suspension if a person has too many moving violations in a short period of time. Oregon law also requires suspension for several offenses unrelated to driving. These include drug possession, theft of gasoline, littering. Finally, there are suspensions that span somewhere between a driving offense and something completely unrelated. These include failure to pay the court fine on a traffic ticket. DMV has more than 400 separate codes for the various ways Oregon law requires suspension or revocation.

The laws granting limited driving privilege permits when suspended or revoked also are complex. The law provides for “hardship permits” for suspensions, and “probationary permits” for revocations. Various statutes allow a hardship permit for some offenses, such as DUII, vehicular assault, and reckless driving. But the statutes do not allow a hardship permit for other, arguably less serious offenses such as providing false information on the driver license application, or a conviction for possession of drugs. Hardship permits allow the person to drive to work, substance abuse or gambling treatment, and for family medical needs. Some permits also allow use of the permit for “family necessities” such as grocery shopping, back and forth to school (for the person or their child), and caring for family members. Specific proof is required to demonstrate each need, the permit must be limited to specific times of day, and DMV may impose other restrictions. The complexity of the hardship and probationary permit laws requires DMV to house a group of experts at headquarters; the permits are not issued in the field.

DISCUSSION

The bill eliminates several suspensions that are not directly related to driving. These include drug convictions, theft of gasoline, and littering. The permit complexity also is addressed in the bill. Probationary Permits are eliminated and replaced with Hardship Permits. Further, some allowances for Hardship Permits are eliminated or clarified. Under the bill Hardship Permits are not allowed for second or subsequent DUII

convictions. All Hardship Permits would require the same qualifications: application, SR-22 proof of insurance, a wait time before eligibility, and a fee. The only exception is for DUI cases, where an ignition interlock would also be required as it is under current law. The driving privileges allowed under a Hardship Permit would be standardized: for work, treatment for substance abuse or gambling addiction, and for medical needs.

SUMMARY

SB 1538-A provides an opportunity to eliminate some suspensions not related to driving. The bill will also streamline the Hardship Permit requirements, making the law more consistent, easier for customers to understand and comply, and more efficient for the agency to manage.

Attachment:
SB 1538-A section by section description

SB 1538-A

Red checkmarks indicate substantive changes to law

Bullets are conforming changes

First Portion of Bill: Hardship Permits

Section 1	<ul style="list-style-type: none"> • Repeals ORS 807.250, mental health (RDL) recommendation for hardship permit, to conform with amendments in Section 2 (no longer allow permits on 2nd or subsequent DUII) • Repeals hardship wait times for assaults (ORS 807.252) – the bill moves the wait times to ORS 807.240 ✓ Repeals need to notify LE of persons issued hardship permits within their community (ORS 807.260) ✓ Repeals probationary permits (ORS 807.270) –the bill allows hardship permits instead for H.O. • Repeals need for “restoration” of Habitual Offender revocation to reinstate (ORS 809.650 and 809.660) – the bill ends revocation; same as all other revocations DMV processes. • Repeals treatment requirements for hardship permit on 2nd or subsequent DUII suspensions (ORS 813.500) to conform with amendments in Section 2 (no longer allow permits on 2nd or subsequent DUII) • Repeals separate limitations of hardship permit for DUII suspensions (ORS 813.510) – these same limitations are already located in ORS 807.240 for all permits
Section 2	<ul style="list-style-type: none"> ✓ Amends 807.240 to allow hardship permit for revocation of a Habitual Offender. ✓ Eliminates driving for family necessities on hardship permits (was only allowed on certain suspensions). ✓ Prohibits hardship permit if suspended for 2nd or subsequent DUII conviction • Adds hardship wait times for assaults previously located in (repealed) ORS 807.252
Section 3	<ul style="list-style-type: none"> • Amends ORS 163.196 (Aggravated DWS) to conform with repeal of ORS 807.270 (probationary permits)
Section 4	<ul style="list-style-type: none"> • Amends ORS 430.165 (OHA fee schedules) to conform with repeal of ORS 813.500 and 813.510 (2nd DUII hardship permit)
Section 5	<ul style="list-style-type: none"> • Amends ORS 430.197 (Mental Health Services fund) to conform with repeal of ORS 813.500 and 813.510 (2nd DUII hardship permit)
Section 6	<ul style="list-style-type: none"> • Amends ORS 801.250 (definition of Driver Permit) to conform with repeal of ORS 807.270 (probationary permits)
Section 7	<ul style="list-style-type: none"> • Amends ORS 807.200 (restricted Class C licenses) to conform with repeal of ORS 807.270 (probationary permits)
Section 8	<ul style="list-style-type: none"> • Amends ORS 807.370 (fee schedule) to conform with repeal of ORS 807.270 (probationary permits) • Repeals fee to reinstate a delay. There are no more delays on Oregon driver records needing reinstatement
Section 9	<ul style="list-style-type: none"> • Amends ORS 809.312 (issuance after suspension) to conform with amendments to ORS 165.805 (Misrepresentation of age offenses by minors) and renumbering of 807.370.
Section 10	<ul style="list-style-type: none"> • Amends ORS 809.390 (revocations) to conform with repeal of ORS 807.270 (probationary permits)
Section 11	<ul style="list-style-type: none"> ✓ Amends ORS 809.600 (Habitual Offender revocations) to emulate other revocations and end after a specific time period (5 years)
Section 12	<ul style="list-style-type: none"> • Amends ORS 811.175 (DWS) to conform with repeal of ORS 807.270 (probationary permits)
Section 13	<ul style="list-style-type: none"> • Amends ORS 811.182 (criminal DWS) to conform with repeal of ORS 807.270 (probationary permits) and amendments to ORS 809.409 (perjury/false affidavit to the Department on a vehicle transaction suspensions)
Section 14	<ul style="list-style-type: none"> • Amends ORS 813.040 (problem conditions) to conform with repeal of ORS 813.500 (treatment requirements)
Section 15	<ul style="list-style-type: none"> • Amends ORS 813.520 to conform with amendments to ORS 807.240 (hardship permits) and repeal of ORS 813.510 (eliminating permits on 2nd DUII), 807.270 (probationary permits)
Section 16	<ul style="list-style-type: none"> • Changes due to this bill apply to permits issued on or after effective date of act

Second Portion of bill: Suspensions

Section 17	<ul style="list-style-type: none"> ✓ Repeals suspension for: <ul style="list-style-type: none"> - School misconduct (ORS 339.254) - School attendance (ORS 809.423, 339.257) - Inhalant/Drug offense (ORS 809.265)
Section 18	<ul style="list-style-type: none"> ✓ Eliminates suspension for littering
Section 19	<ul style="list-style-type: none"> ✓ Modifies suspension for misrepresentation of age. Suspension authority for this same offense is still applicable under ORS 471.430 and 475B.260 if involved operation of a motor vehicle or for multiple offenses.
Section 20	(Omitted)
Section 21	<ul style="list-style-type: none"> ✓ Replaces suspension for Non-Sufficient Funds check with cancellation

Section 22	• Amends ORS 802.550 (DL compact laws) to conform with renumbering of ORS 809.409 (revocation for crimes)
Section 23	(Omitted)
Section 24	(Omitted)
Section 25	• Eliminates suspension of applying for DL or permit in two different names (ORS 809.135) Suspension authority for this same offense is still applicable under ORS 809.310.
Section 26	✓ Modifies ORS 809.260 regarding MIP suspension authority.
Section 27	• Amends ORS 809.275 (court to take possession of DL upon conviction) to conform with repeal ORS 809.265 and amendment to ORS 165.805.
Section 28	• Amends ORS 809.280 (DMV imposing of suspensions) to conform to repeal 809.265.
Section 29	✓ Eliminates suspension for transfer of documents for purposes of misrepresentation of age ✓ Eliminates suspension for providing false information to a police officer
Section 30	• Amends ORS 809.380 (suspensions) to conform with repeal of ORS 809.423 (school attendance)
Section 31	✓ Eliminates revocation for fraudulent/perjury vehicle transaction. ORS 809.409
Section 32	✓ Eliminates suspension for theft of gas
Section 33	• Amends ORS 809.415 (judgments) to conform with amendments to ORS 809.416 (4)(non-sufficient fund suspension)
Section 34	• Amends ORS 809.416(4) to conform with amendment to ORS 802.170 (eliminating suspension for non-sufficient check)
Section 35	• Applies to conduct on or after effective date of bill.

Driving Privileges For NOAA Officers	
Section 36	Amends ORS 807.020 to include a person who is a member of the commission corps of the National Oceanic and Atmospheric Administration to operate a motor vehicle without an Oregon license or driver permit if the person is operating a vehicle in the course of the person's duties.

Captions	
Section 37	Captions