

Chapter 809 — Refusal, Suspension, Cancellation and Revocation of Registration and Driving Privileges; Habitual Offenders; Vehicle Impoundment

2001 EDITION

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## REGISTRATION

**809.010 Court-ordered suspension.** A court shall order the Department of Transportation to suspend the registration of a motor vehicle required to be registered by the department upon conviction of the traffic offenses described in this section. The requirement to order the suspension of vehicle registration under this section is subject to all of the following:

(1) The court shall order the department to suspend the registration under this section when a person is convicted:

(a) Of driving a motor vehicle while the person’s license is suspended or revoked in violation of ORS 811.175 or 811.182; or

(b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.

(2) The registration of the following vehicles shall be ordered suspended under this section:

(a) Any vehicle required to be registered by the department of which the convicted person is the owner.

(b) Any vehicle required to be registered by the department which the convicted person is operating at the time of the person’s arrest.

(3) A court may not issue an order to suspend the registration under this section for more than 120 days.

(4) Upon issuing an order to suspend the registration under this section, a court shall issue a copy of the order to

the department for suspension according to ORS 809.020.

(5) The court may order, under this section, the department to suspend the registration of a motor vehicle of which the convicted person is not the owner only if the court is satisfied by clear and convincing evidence that the owner knew or had good reason to know that the convicted person:

- (a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or
- (b) Was operating the vehicle while under the influence of intoxicants. [1983 c.338 §386; 1985 c.16 §202; 1985 c.173 §6; 1987 c.730 §13; 1991 c.407 §30]

**809.020 Response to court-ordered suspension.** When the Department of Transportation receives an order from a court to suspend the registration of a vehicle, the department shall respond to the order as provided in this section based on the type of suspension. If the court orders the suspension of registration under:

- (1) ORS 809.120, the department shall impose the suspension as recommended by the court.
- (2) ORS 809.010, the department shall forthwith suspend the registration and require the owner to return the registration card and plates. When the department suspends a registration under this subsection the department shall:
  - (a) Destroy the registration card and plates; and
  - (b) Issue a new registration card and new plates to the owner upon expiration of the period specified by the court in its order upon payment by the owner to the department of a restoration fee established under ORS 809.030. The department may not charge the owner any fee for the card and plates other than the restoration fee.
- (3) ORS 809.130, the department, after opportunity for hearing under ORS 809.040, shall suspend the registration of the person's employer's vehicles, until notified by the court to reinstate the registration and until the department receives proof of compliance with future responsibility filings from the employer, if the department determines that all of the following apply:
  - (a) A judgment of the type described under ORS 806.040 was rendered against the person.
  - (b) The judgment has remained unsettled as described by ORS 809.470 for 60 days.
  - (c) The judgment continues to be unsettled.
  - (d) At the time of the accident that is the source of the judgment, the employee was driving, with the permission of the employer, a vehicle owned, operated or leased by the employer. [1983 c.338 §284; 1985 c.16 §116; 1999 c.359 §2]

**809.030 Restoration fee.** The restoration fee for registration suspended under ORS 809.020 based on a court order under ORS 809.010 is \$10. [1983 c.338 §292]

**809.040 Hearing; notice; judicial review.** (1) When a hearing is required under ORS 809.020 or 809.050, the Department of Transportation shall afford a person an opportunity of a hearing before the department suspends or revokes vehicle registration. A hearing described by this subsection is subject to all of the following:

- (a) Before the hearing, the department shall provide the person with notice meeting the requirements under ORS 809.430.
  - (b) The hearing, if requested, shall be in the county wherein the person resides unless the person and the department agree to hold it elsewhere.
  - (c) The hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.
  - (d) The hearing shall be conducted by a hearing officer assigned from the Hearing Officer Panel established under section 3, chapter 849, Oregon Laws 1999.
- (2) The hearing requirements under this section do not apply in any case where the department finds a serious danger to the public safety and sets forth specific reasons for such finding.
- (3) Judicial review of orders suspending or revoking registration under this section shall be as provided in ORS 183.310 to 183.550. [1983 c.338 §283; 1985 c.16 §115; 1985 c.401 §12; 1999 c.849 §184]

**Note:** The amendments to 809.040 by section 185, chapter 849, Oregon Laws 1999, become operative January 1, 2004. See section 186, chapter 849, Oregon Laws 1999. The text that is operative on and after January 1, 2004, is set forth for the user's convenience.

**809.040.** (1) When a hearing is required under ORS 809.020 or 809.050, the Department of Transportation shall afford a person an opportunity of a hearing before the department suspends or revokes vehicle registration. A hearing described by this subsection is subject to all of the following:

- (a) Before the hearing, the department shall provide the person with notice meeting the requirements under ORS

809.430.

(b) The hearing, if requested, shall be conducted by a hearing officer designated by the department in the county wherein the person resides unless the person and the department agree to hold it elsewhere.

(c) The hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(2) The hearing requirements under this section do not apply in any case where the department finds a serious danger to the public safety and sets forth specific reasons for such finding.

(3) Judicial review of orders suspending or revoking registration under this section shall be as provided in ORS 183.310 to 183.550.

**809.050 Suspension of registration of employer for failure to make future responsibility filing.** (1) If an employer is required to make future responsibility filings by ORS 806.200 and fails to make the filings, the Department of Transportation shall revoke or suspend the vehicle registration of vehicles owned by the employer until the owner:

(a) Makes accident reports as required under ORS 811.730; and

(b) Makes future responsibility filings.

(2) The department shall provide an opportunity for a hearing described under ORS 809.040 before suspending or revoking registration under this section. [1983 c.338 §286]

**809.060 Suspension, revocation, refusal to issue license, permit, identification card, title or registration for failure to use same name.** The Department of Transportation may refuse to issue, may revoke or may suspend any license, permit, identification card, title or registration issued by the department or for which application is made to the department if the department determines that the person issued or applying for the license, permit, identification card, title or registration has used one name in one application and another name in any other application. [1983 c.338 §287; 1985 c.16 §118; 1993 c.751 §104]

**809.070** [1983 c.338 §289; 1985 c.16 §119; 1991 c.459 §438j; repealed by 1993 c.751 §106]

**809.080 Failure to return suspended registration; penalty.** (1) A person commits the offense of failure to return suspended registration if the person has vehicle registration suspended and the person fails to immediately return to the Department of Transportation any registration plates or registration card issued to the person under the suspended registration.

(2) If any person fails to return registration plates or cards as required by this section, the department may request any peace officer to secure possession thereof and return it to the department.

(3) The offense described in this section, failure to return suspended registration, is a Class C misdemeanor. [1983 c.338 §291; 1985 c.16 §120; 1985 c.393 §6; 1985 c.401 §14]

**809.090 Cancellation of registration or title for failure to qualify.** (1) The Department of Transportation may cancel the registration or title or both of a vehicle if the department determines that:

(a) A holder is not entitled thereto; or

(b) All fees applicable to a vehicle, payable to the department under any provision of law have not been paid.

(2) Before cancellation under this section the department must give opportunity for a hearing upon 10 days' notice. The notice shall be served in person or by first class mail. [1983 c.338 §288; 1991 c.249 §73; 1993 c.233 §53; 1999 c.1009 §3]

**809.095 Cancellation of registration for false certification of compliance with financial responsibility requirements.** (1) The Department of Transportation may cancel the registration of, or right to apply for registration for, any vehicle owned by a person if the person falsely certifies compliance with financial responsibility requirements, submits to the department unsatisfactory proof of such compliance or otherwise fails to comply with financial responsibility requirements.

(2) Cancellation under this section shall continue until the person complies with any applicable financial responsibility filing requirements. [1993 c.751 §103]

**809.100 Hearing on proposed cancellation or refusal; judicial review.** (1) When the Department of Transportation proposes to cancel or refuse to issue or renew title or registration, opportunity for hearing shall be

accorded as provided in ORS 183.310 to 183.550.

(2) Judicial review of orders under this section shall be in accordance with ORS 183.310 to 183.550. [1983 c.338 §282; 1985 c.16 §114; 1985 c.401 §11; 1993 c.233 §54]

**809.110 Failure to surrender canceled registration or title; penalty.** (1) A person commits the offense of failure to surrender canceled registration or title if the person holds any evidence of registration or any evidence of title issued by the Department of Transportation that the department has canceled and the person does not surrender the evidence of registration or title to the department.

(2) The offense described in this section, failure to surrender canceled registration or title, is a Class A misdemeanor. [1983 c.338 §290; 1993 c.233 §55]

## REGISTRATION, DRIVING PRIVILEGES OR IDENTIFICATION CARD

**809.120 Court recommended suspension of registration or driving privileges for weight violation.** (1) In addition to any other punishment imposed under ORS 818.040 a convicting court has authority to recommend the suspension of the driving privileges of the operator of the vehicle used to violate ORS 818.040 or the registration of the vehicle if the vehicle is required to be registered by the Department of Transportation. The authority of a court to recommend the suspension of driving privileges or registration under this section is subject to the following:

(a) Subject to paragraph (b) of this subsection, the court may only recommend suspension for a period of up to 90 days.

(b) For a second or subsequent violation of ORS 818.040, within one year after the first conviction, the court shall recommend the suspension for not less than 30 days nor more than 90 days.

(2) Upon recommending a suspension under this section, a court shall secure the license, driver permit or registration plates recommended suspended and shall immediately forward them to the department with the recommendation of suspension as provided under ORS 809.250.

(3) Upon receipt of an order under this section, the department shall proceed as provided under ORS 809.020 or 809.280. [1983 c.338 §390; 1985 c.16 §207; 1991 c.407 §31]

**809.130 Suspension, revocation of registration or driving privileges for unsettled judgment.** (1) If a court notifies the Department of Transportation under this section that a judgment remains unsettled as described by ORS 809.470, the department must initiate action to determine whether to suspend or revoke driving privileges under ORS 809.410 or vehicle registration of the employer under ORS 809.020. A court shall immediately give the department notice of an unsettled judgment under this section if:

(a) A judgment of the type described under ORS 806.040 is rendered against a person by a court of this state;

(b) The person fails within 60 days to settle the judgment in the manner required under ORS 809.470; and

(c) The judgment creditor or the judgment creditor's attorney makes a written request for forwarding to the department a certificate stating the judgment has not been settled as described in ORS 809.470.

(2) A court that has given the department notice of an unsettled judgment under this section shall immediately forward to the department a certificate stating that the judgment is appropriately settled and describing the judgment and parties sufficiently for identification if:

(a) The judgment is settled in the manner required under ORS 809.470; and

(b) The judgment debtor or the judgment debtor's attorney makes a written request for forwarding to the department a certificate stating the judgment has been settled as described in ORS 809.470.

(3) The notice made to the department under this section shall be given by the clerk of the court or, if the court has no clerk, by the judge. [1983 c.338 §391; 1985 c.16 §208]

**809.140 Administrative review of suspension, revocation or cancellation.** (1) Unless otherwise specifically provided by law, a person whose identification card, vehicle registration or driving privileges are suspended, revoked or canceled by the Department of Transportation is entitled to administrative review of the action rather than to a formal hearing by the department if the suspension, revocation or cancellation is based upon:

(a) A conviction;

(b) Notification from a court that the court has suspended, revoked or canceled an identification card, registration or privileges; or

(c) Notice from a court to the department to suspend, cancel or revoke.

(2) Actions by the department based on grounds other than those specified in subsection (1) of this section may be subject to administrative review rather than a formal hearing if specifically provided by law. [1991 c.702 §2; 1993 c.627 §1]

**809.200** [1983 c.338 §389; repealed by 1987 c.730 §23]

## DRIVING PRIVILEGES

(Court-Ordered or Recommended)

### **809.210 Suspension or restriction of driving privileges for failure to pay fine or obey court order; exceptions.**

(1) A court may do any of the following if the defendant is convicted of any traffic offense and fails or refuses to pay a fine imposed by the judge or to comply with any condition upon which payment of the fine or any part of it was suspended:

(a) Issue notice to the Department of Transportation to implement procedures under ORS 809.290.

(b) Order a defendant's driving privileges restricted.

(2) The authority granted in this section is in addition to or instead of any other method authorized by law for enforcing a court order.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the department of the restrictions.

(b) Upon removal of such restriction, the court shall notify the department that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The department shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If a judge issues notice to implement procedures under ORS 809.290 as provided under this section:

(a) The judge shall immediately send to the department notice upon payment of the fine as ordered.

(b) The department shall take action on the suspension as provided under ORS 809.290.

(5) A court shall not issue notice under this section to implement procedures under ORS 809.290 for failure to pay a fine relating to any parking offense, pedestrian offense or bicycling offense. [1983 c.338 §387; 1985 c.16 §203; 1985 c.669 §13; 1991 c.702 §5; 1993 c.751 §54]

**809.220 Failure to appear; suspension or other procedures.** This section establishes procedures that are applicable if a person fails to appear on a citation for a traffic offense or for a violation of ORS 471.430. All of the following apply to this section:

(1) If a defendant fails to make any appearance required by the court or by law in a proceeding charging the defendant with a traffic offense or with a violation of ORS 471.430, the court:

(a) Shall issue notice to the Department of Transportation to suspend for failure to appear if the defendant is charged with a traffic crime or with a violation of ORS 471.430. If a court issues notice under this paragraph, the department shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the department to implement procedures under ORS 809.290 if the defendant is charged with a traffic violation. If a court issues notice under this paragraph, the department shall implement procedures under ORS 809.290.

(2) In any notice to the department under this section, a court shall certify that the defendant failed to appear in the proceedings in the manner required by the court or by law.

(3) At any time within five years from the date of a notice to suspend for failure to appear given to the department under this section, a court shall give a second notice to the department to terminate a suspension resulting from the original notice if any of the following occur:

(a) The base fine amount or fine set by the court is paid.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the suspension for failure to pay or appear should be terminated for good cause.

(4) Notifications by a court to the department under this section shall be in a form prescribed by the department.

(5) A court shall not notify the department under this section for failure to appear on any parking, pedestrian or bicyclist offense. [1983 c.338 §393; 1985 c.16 §209; 1985 c.669 §15; 1989 c.161 §1; 1991 c.702 §6; 1995 c.142 §3;

1999 c.1051 §281; 2001 c.817 §1; 2001 c.823 §27]

**809.230 Court suspension or revocation of nonresident driving privileges.** A court may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges of a resident of this state may be suspended or revoked. [1983 c.338 §394]

**809.235 Permanent revocation of driving privileges upon conviction of certain crimes; restoration of privileges.** (1)(a) Notwithstanding ORS 809.410 (1), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder or of manslaughter in the first degree and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim.

(b) The court shall order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants under ORS 813.010.

(2) No sooner than 10 years after a person whose privileges are revoked as described in subsection (1) of this section is released on parole or post-prison supervision, the person may file a petition in the circuit court of the county in which the person resides for an order restoring the person's driving privileges. The district attorney of the county shall be named and served as the respondent in the petition.

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

(a) The nature of the offense for which driving privileges were revoked.

(b) The degree of violence involved in the offense.

(c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that resulted in the revocation.

(d) The recommendation of the person's parole officer, which shall be based in part on a psychological evaluation ordered by the court to determine whether the person is presently a threat to the safety of the public.

(e) Any other relevant factors.

(4) If, after a hearing described in subsection (3) of this section, the court is satisfied by clear and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a threat to the safety of the public, the court shall order the petitioner's driving privileges restored. [1993 c.761 §2; 1995 c.661 §2; 2001 c.786 §1]

**Note:** Section 3, chapter 661, Oregon Laws 1995, provides:

**Sec. 3.** This Act [amending 809.235 and 809.410] applies to persons convicted on or after the effective date of this Act [September 9, 1995] as well as to any person who, on the effective date of this Act, is incarcerated, on parole, on post-prison supervision or on probation for one of the offenses that subjects a person to the provisions of this Act. If a person subject to this Act is on parole, post-prison supervision or probation on the effective date of this Act, the period of revocation required by this Act shall begin on the effective date of this Act. [1995 c.661 §3]

**809.240 Court imposition of suspension or revocation; taking possession of license or permit; temporary permit.** (1) If a person is convicted of an offense that will result in mandatory suspension or revocation under ORS 809.410, 813.400 or 813.403, the trial judge shall:

(a) Impose the revocation or suspension at the time of conviction for the required period; and

(b) Comply with the requirements under ORS 809.250 to take possession of the license or driver permit of the person.

(2) When necessary to give full effect to this section, a court shall issue a temporary driver permit under ORS 807.320. [1983 c.338 §395; 1985 c.16 §210; 1991 c.185 §5]

**809.250 Court to take possession of license or permit; effective date of suspension or revocation.** (1) A court shall take immediate possession of any license or driver permit held by a defendant that is issued by any jurisdiction if the court imposes a suspension under ORS 809.120, 809.240 or 809.270.

(2) Upon taking possession of a license or permit under this section, a court shall immediately forward to the Department of Transportation the license or permit and a copy of the suspension or revocation order or other information satisfactory to the department and to the State Court Administrator.

(3) A suspension or revocation of driving privileges becomes effective on the date a court takes possession of a license or permit under this section or orders the suspension or revocation. [1983 c.338 §396; 1985 c.669 §14; 1987

**809.260 Denial of driving privileges for convicted juvenile.** (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall prepare and send to the Department of Transportation, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted. This section applies to ORS 166.370 and to any offense involving the delivery, manufacture or possession of controlled substances or the possession, use or abuse of alcohol.

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

(3) Upon receipt of an order under this section, the department shall take action as directed under ORS 809.280. [1985 c.16 §206; 1991 c.835 §3; 1993 c.625 §6; 1999 c.1051 §88]

**809.265 Suspension for inhalant or controlled substances conviction.** (1) Unless the court finds compelling circumstances not to order suspension of driving privileges, the court in which a person is convicted of an offense described in this subsection shall prepare and send to the Department of Transportation, within 24 hours of the conviction, an order of suspension of driving privileges of the person. This subsection applies when a person is convicted of:

(a) Any offense involving manufacturing, possession or delivery of controlled substances.

(b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance if the person was under the influence of an inhalant or a controlled substance.

(2) Upon receipt of an order under this section, the department shall take action as directed under ORS 809.280. [1991 c.835 §2; 1999 c.619 §7; 1999 c.1051 §139]

**809.267 Additional fee upon notice of suspension or restriction.** A court shall add a \$15 fee to the judgment in any case in which the court gives notice to the Department of Transportation of the suspension or restriction of a defendant's driving privileges. The fee shall be added to the judgment without further notice to the defendant or further order of the court. This section applies to suspensions or restrictions ordered by a court for failure of a person to comply with a court order or with any conditions imposed by the court, for failure to pay a fine or for failure to appear as required by ORS 153.061. [1995 c.142 §2; 1999 c.1051 §140; 2001 c.823 §26]

(Court-Ordered Driver Improvement Program)

**809.270 Driver improvement course; enforcement by suspension or restriction of privileges.** (1) A court may require that a defendant convicted of a traffic offense successfully complete, within a time fixed by the judge, a defensive driving or other appropriate driver improvement course conducted by the Department of Transportation or any other rehabilitative program and may use the suspension or restriction of the person's driving privileges or right to apply for driving privileges to enforce the requirement by ordering:

(a) The suspension until the defendant successfully completes the program; or

(b) The suspension or restriction if the defendant fails to successfully complete the program.

(2) The authority granted under this section is in addition to any fine or imprisonment authorized by law, including probation and suspension of imposition or execution of any sentence upon conditions ordered by the court.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the department of the restrictions in writing.

(b) Upon removal of such restrictions, the court shall notify the department in writing that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The department shall take action as provided under ORS 807.120 on restrictions imposed under this section.

- (e) The restrictions may include any restriction, condition or requirement.
- (f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If suspension is ordered under this section:

- (a) The court shall so notify the department and the department shall impose the suspension of the driving privileges as provided under ORS 809.280.
- (b) The court shall notify the department of reinstatement after any suspension ordered under this section.
- (c) The department shall take action on the suspension or reinstatement as provided under ORS 809.280.
- (d) The judge shall comply with the requirements under ORS 809.250 to take possession of the license or permit of the person. [1983 c.338 §388; 1985 c.16 §204; 1993 c.18 §169]

(Department Procedures)

**809.280 Procedures following court order or recommendation; length of suspension or revocation.** (1) This section establishes the procedures the Department of Transportation shall follow when a court orders or recommends the suspension or revocation of driving privileges. This section also establishes the period of time the revocation or suspension will be effective.

(2) When a court orders a suspension of driving privileges under ORS 809.270, the department shall immediately make proper entry in its files and records and take other action as necessary to implement the order. The suspension shall remain in force until the department is notified by the court that the suspension is ended, except that, if the department is ordered to automatically restore the driving privileges upon the successful completion of a program, the department shall do so and shall notify the judge that the person has complied with the order of the judge.

(3) When a court recommends a suspension of driving privileges under ORS 809.120, the department shall impose the suspension as recommended by the court.

(4) When a court notifies the department under ORS 809.130 of an unsettled judgment, the department shall suspend and, subject to any other requirements of law, restore the driving privileges upon appropriate notification from the court under ORS 809.130, except that the department shall only impose the suspension after the department has determined that:

- (a) The judgment was rendered against the person;
- (b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and
- (c) The judgment continues to be unsettled as described in ORS 809.470.

(5) When a court notifies the department under ORS 419C.472 or 809.220 to suspend for failure to appear, the department shall suspend the driving privileges of the person for an indefinite period. The department shall terminate the suspension upon notification by the court or upon the elapse of five years from the date of suspension. A suspension under this subsection shall be placed on the defendant's driving record. The department shall not suspend any driving privileges under this subsection for a person's failure to appear on a parking, pedestrian or bicyclist offense.

(6) When a court sends the department a license or otherwise notifies the department under ORS 810.310, the department shall suspend the driving privileges of the person for an indefinite period. The department shall terminate the suspension ordered under this section upon notification by the court or upon the lapse of five years from the date of suspension, whichever comes first.

(7) In addition to any other authority to suspend driving privileges under the vehicle code, the department shall suspend all driving privileges of any person upon receipt of an order of denial of driving privileges under ORS 809.260. The suspension shall be imposed without hearing. The driving privileges of the person shall be suspended as provided in the following:

- (a) Upon receipt of the first order denying driving privileges, the department shall impose a suspension for one year, or until the person so suspended reaches 17 years of age, whichever is longer.
- (b) Upon receipt of a second or subsequent order denying driving privileges, the department shall suspend for one year or until the person reaches 18 years of age, whichever is longer.

(8) If the department receives notice from a court that it has withdrawn an order issued under ORS 809.260, the department shall immediately reinstate any driving privileges that have been suspended under subsection (7) of this section because of the issuance of the order.

(9) When a court orders suspension of driving privileges under ORS 165.805 or 471.430, the department shall impose the suspension as ordered by the court.

(10) When a court orders a suspension of driving privileges under ORS 809.265, the department shall immediately

suspend all driving privileges of the person. Upon receipt of an order suspending driving privileges, the department shall impose a suspension for six months.

(11) When a court orders revocation of driving privileges as provided in ORS 809.235, the department shall impose the revocation as ordered. The revocation shall remain in effect until the department is notified by a court that the person's driving privileges have been ordered restored. [1983 c.338 §362; 1985 c.16 §177; 1985 c.597 §23; 1985 c.669 §12; 1987 c.730 §15; 1991 c.835 §4; 1991 c.860 §3; 1993 c.751 §57; 1993 c.761 §3; 1999 c.359 §3; 1999 c.770 §4; 2001 c.817 §8]

**809.290 When person subject to suspension; duration.** This section establishes circumstances that will make a person subject to suspension under ORS 809.410 (24) and what a person is required to do to make the person no longer subject to suspension. The following apply as described:

(1) A person is subject to suspension under ORS 809.410 (24) if the Department of Transportation receives notice from a court to apply this section under ORS 809.220. A person who is subject under this subsection remains subject until the person presents the department with notice issued by the court showing that the person is no longer subject to this section or until five years have elapsed, whichever is earlier. This subsection shall not subject a person to ORS 809.410 (24) for any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice required by this subsection.

(2) A person is subject to suspension under ORS 809.410 (24) if the department receives notice from a court under ORS 809.210 that a person has failed to pay a fine or obey an order of the court. A person who is subject under this subsection remains subject until the person presents the department with notice issued by the court showing that the person has paid the fine or obeyed the order of the court or until five years have elapsed, whichever is earlier. This subsection shall not subject a person to ORS 809.410 (24) for failure to pay a fine relating to any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice required by this subsection.

(3) A person is subject to suspension under ORS 809.410 (24) if the person pays the department any fee or tax with a bank check and the check is returned to the department as uncollectible or the person tenders payment with a credit or debit card and the issuer of the card does not pay the department. A person who is subject under this subsection remains subject until the department receives the money for the fee or tax and any fee charged by the department under ORS 802.170 or until five years have elapsed, whichever is earlier. [1985 c.669 §6; 1991 c.702 §7; 1993 c.751 §58]

**809.300** [1985 c.669 §7; repealed by 1991 c.702 §20]

(Cancellation, Refusal to Issue, Suspension or Revocation)

**809.310 Cancellation or suspension of driving privileges; grounds; surrender of license or permit; duration; reissuance of privileges.** (1) The Department of Transportation may cancel any driving privileges upon determining that the person is not entitled to the driving privileges under the vehicle code. The department may reissue driving privileges canceled under this subsection when the applicant has satisfied all requirements for the driving privileges sought.

(2) The department may cancel any driver license or permit that contains any error or defect or that is found to have been issued on the basis of false information given to the department. Cancellation under this subsection is in addition to any suspension of driving privileges authorized for the same conduct.

(3) The department may suspend any driving privileges or right to apply for privileges or any identification card or right to apply for a card upon determining that the person issued or applying for the driving privileges or identification card has committed any of the following acts:

- (a) Failed to give the required or correct information in the application for the driving privileges or for an identification card, in violation of ORS 807.430 or 807.530.
- (b) Committed false swearing in making application for the driving privileges in violation of ORS 807.520.
- (c) Used an invalid license or identification card in violation of ORS 807.430 or 807.580.
- (d) Permitted misuse of license, permit or identification card in violation of ORS 807.430 or 807.590.
- (e) Used the license, permit or identification card of another in violation of ORS 807.430 or 807.600.
- (f) Produced identification cards, licenses, permits, forms or camera cards in violation of ORS 807.500.

(g) Transferred documents for the purpose of misrepresentation in violation of ORS 807.510.

(h) Given false information to a police officer in violation of ORS 807.620.

(4) Upon suspension or cancellation of driving privileges under this section, a person whose privileges are suspended or canceled shall surrender to the department any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

(5) To obtain driving privileges after the period of suspension or cancellation under this section, a person must reapply for driving privileges in the manner established by law. [1983 c.338 §345; 1985 c.393 §8; 1987 c.272 §1; 1993 c.393 §6]

**809.320 Cancellation on written request of parent, guardian or employer.** (1) If an applicant for driving privileges must have a parent, guardian or employer sign the application before the person qualifies under ORS 807.060, that parent, guardian or employer who has signed the application may thereafter file with the Department of Transportation a written request that the driving privileges of the person so granted be canceled.

(2) The department shall cancel the driving privileges of a person upon written request under this section if the person is under 18 years of age. [1983 c.338 §346; 1985 c.16 §162]

**809.330** [1983 c.338 §347; 1985 c.669 §11; 1991 c.702 §24; repealed by 1993 c.751 §106]

**809.340** [1985 c.396 §3; repealed by 1991 c.702 §20]

**809.350** [1985 c.396 §4; 1999 c.849 §§187,188; repealed by 2001 c.294 §12]

**809.360 General provisions relating to suspension or revocation of driving privileges.** (1) For purposes of determining whether grounds exist for revoking or suspending driving privileges, an unvacated forfeiture of bail in another state equals a conviction.

(2) A suspension or revocation of driving privileges ordered by a court shall run concurrently with any mandatory suspension or revocation ordered by the Department of Transportation and arising out of the same conviction.

(3) Judicial review of orders denying, suspending or revoking a license, except where such suspension or revocation is mandatory, shall be as provided in ORS 183.310 to 183.550.

(4) Whenever the department or a court has reason under any laws of this state to suspend or revoke the driving privileges of any person who does not hold current driving privileges to operate motor vehicles or whose driving privileges are due to expire during a suspension period, the department or court shall suspend or revoke the right of such person to apply for driving privileges to operate motor vehicles in this state. A suspension or revocation of a right to apply for driving privileges under this subsection shall be for the period provided by law.

(5) Whenever the department or a court has reason under any laws of this state to suspend the commercial driver license of any person who does not hold a current commercial driver license or whose commercial driver license is due to expire during a suspension period, the department or court shall suspend the right of such person to apply for a commercial driver license in this state. A suspension of a right to apply for a commercial driver license under this subsection shall be for the period provided by law.

(6) Notwithstanding any other provision of law, a person who holds a farm indorsement described in ORS 807.035 while operating within the limitations of the indorsement is not subject to suspension of a commercial driver license or of the right to apply for a commercial driver license for any offense that would subject the driver of a commercial motor vehicle to such sanction. Nothing in this subsection prohibits suspension of the person's Class C driver license or the right to apply for such a license. [1983 c.338 §348; 1987 c.272 §2; 1989 c.636 §34; 1999 c.1051 §282]

**809.370 Authority of juvenile court.** A determination by a juvenile court that a child within its jurisdiction has committed any act that is grounds for suspension or revocation of driving privileges under ORS 809.410 or has violated any other law or ordinance regulating the operation of motor vehicles is equivalent to a conviction and the juvenile court has the same authority to order suspensions of driving privileges and take other actions in relation to the driving privileges of the child as other courts have in relation to adult traffic offenders. [1983 c.338 §349; 1985 c.16 §163; 1991 c.317 §1]

**809.380 Period of suspension; effect; reinstatement; fee.** All of the following apply to a person whose driving privileges have been suspended:

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

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

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

(4) The department shall not issue any driving privileges in contradiction to this section.

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

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

(a) The suspension occurred under ORS 809.410 for failure to take an examination upon request of the department under ORS 807.340.

(b) The suspension occurred under ORS 809.410 for failure to obtain required medical clearance upon request of the department under ORS 807.070 or 807.090.

(c) The suspension occurred under ORS 809.410 for incompetence to drive a motor vehicle or having a mental or physical condition rendering it unsafe for a person to drive a motor vehicle.

(d) The suspension occurred under ORS 809.410 upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive.

(e) The suspension occurred under ORS 809.410 upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity.

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

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

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

(i) The department issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department later determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the department's letter of verification or at the time of the accident.

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

(k) The suspension occurred because the person failed to make future responsibility filings but the department later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the military orders must be prior to the effective date of a suspension issued by the department for failure to make a future responsibility filing. [1983 c.338 §350; 1985 c.16 §164; 1985 c.173 §1; 1985 c.393 §9; 1985 c.669 §17a; 1985 c.714 §8; 1987 c.137 §3; 1987 c.258 §8; 1987 c.272 §3; 1987 c.801 §7; 1989 c.224 §139; 1991 c.474 §1]

**809.390 Period of revocation; effect; reinstatement; fee.** All of the following apply to a person whose driving privileges have been revoked:

(1) The period of revocation shall last as long as required for the revocation by law.

(2) During the period of revocation, the person is not entitled to exercise any driving privileges in this state or to apply for or receive any driving privileges in this state except when a person who has been determined to be a habitual offender is permitted to obtain driving privileges under a probationary driving permit as described under ORS 807.270

and 809.650. This subsection prohibits the issuance of any driver permit, including a hardship permit described under ORS 807.240, to a person whose driving privileges or right to apply for driving privileges are revoked except as provided for the probationary driving permit under ORS 807.270.

(3) Upon expiration of the revocation period, the person must reapply for driving privileges in the manner established by law and must reestablish the person's eligibility for issuance of driving privileges. If driving privileges are revoked because the person is a habitual offender, the person must meet the additional eligibility requirements for reinstatement of driving privileges under ORS 809.650 and 809.660.

(4) The Department of Transportation may issue new driving privileges to a person before the expiration of the revocation period if the person is otherwise entitled to be issued driving privileges and when, with reference to a conviction upon which the revocation was based, the Governor has pardoned the person of the crime.

(5) The department shall not issue any driving privileges in contradiction to this section.

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

(7) No reinstatement of revoked driving privileges will be made by the department until the fee for reinstatement of revoked driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee if the department committed an error in issuing the revocation. [1983 c.338 §351; 1985 c.16 §165; 1985 c.393 §10; 1985 c.669 §1; 1987 c.801 §8]

**809.400 Suspension or revocation for out-of-state conviction.** (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the Department of Transportation may suspend or revoke the driving privileges of any resident of this state upon receiving notice of the conviction of such person in another jurisdiction of an offense therein that, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person. A suspension or revocation under this subsection shall be initiated within 30 days of receipt of notice of the conviction. Violation of a suspension or revocation imposed under this subsection shall have the same legal effects and consequences as it would if the offense committed in the other jurisdiction had been committed in this jurisdiction.

(b) The department may not suspend or revoke driving privileges under this subsection unless notice of conviction is received within 180 days of the date of the conviction.

(2) The department may suspend or revoke the driving privileges of any resident of this state upon receiving notice from another state, territory, federal possession or district or province of Canada that the person's driving privileges in that jurisdiction have been suspended or revoked. Violation of the suspension or revocation shall have the same legal effects and consequences as it would if the suspension or revocation had been imposed initially in this state upon the same grounds. The suspension or revocation under this subsection shall continue until the person suspended or revoked furnishes evidence of any of the following:

(a) Compliance with the law of the other jurisdiction or the restoration of driving privileges in that jurisdiction.

(b) That the revocation or suspension in the other jurisdiction was not under circumstances that would require the department to suspend or revoke the driving privileges of the person under the laws of this state.

(3)(a) The department may suspend the commercial driver license of a resident of this state upon receiving notice of the conviction of such person in another jurisdiction of an offense therein that, if committed in this state, would be grounds for the suspension of the person's commercial driver license. The period of suspension under this paragraph shall be the same as would be imposed on the person if the conviction were for an offense committed in this state.

(b) The department may suspend the commercial driver license of a resident of this state upon receiving notice that the person's commercial driving privileges have been suspended or revoked in another jurisdiction for reasons that would be grounds for suspension of the person's commercial driver license in this state. The period of suspension under this paragraph shall be the same as would be imposed on the person if the violation were committed in this state.

(4) A person is entitled to administrative review of a suspension under this section. [1983 c.338 §352; 1987 c.272 §4; 1987 c.730 §16; 1989 c.171 §90; 1989 c.398 §1; 1989 c.636 §35; 1991 c.595 §1; 1991 c.702 §11]

**809.405** [1989 c.715 §4; 1999 c.328 §7; repealed by 2001 c.176 §1]

**809.407 Suspension of commercial driver license for specified railroad crossing violations.** (1) The driver of a commercial motor vehicle is subject to suspension of the driver's commercial driver license or right to apply for a commercial driver license upon conviction of any of the following:

(a) Failure to stop for a railroad signal in violation of ORS 811.455.

(b) Failure to follow rail crossing procedures for high-risk vehicles in violation of ORS 811.460.

(c) Obstructing a rail crossing in violation of ORS 811.475.

(d) Failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train in violation of ORS 811.462.

(2) Upon receipt of a record of conviction for an offense described in subsection (1) of this section, the Department of Transportation shall suspend the convicted person's commercial driver license or right to apply for a commercial driver license for the following periods of time:

(a) Sixty days, upon receipt of a first record of conviction.

(b) One hundred and twenty days, if commission of a second offense and the conviction for a separate offense occur within a three-year period.

(c) One year, if commission of a third or subsequent offense and two or more convictions for separate offenses occur within a three-year period.

(3) A person is entitled to administrative review of a suspension under this section. [2001 c.492 §2]

**809.410 Grounds for suspension and revocation; whether mandatory or permissive; duration.** This section and ORS 809.407, 813.400 and 813.403 establish grounds for the suspension and revocation of driving privileges and commercial driver licenses by the Department of Transportation, whether the suspension or revocation is mandatory or permissive, the length of time the suspensions will be effective and special provisions relating to certain suspensions and revocations. Hearing and administrative review procedures for this section and ORS 809.407, 813.400 and 813.403 are established under ORS 809.440. The following apply as described:

(1) Any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a motor vehicle and assault in the first degree resulting from the operation of a motor vehicle constitute grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall revoke the driving privileges or right to apply for driving privileges.

(b) A person whose driving privileges or right to apply for driving privileges are revoked under this subsection may apply for reinstatement of driving privileges eight years from the date the person is released from incarceration for the offense, if the sentence for the offense includes incarceration. If the sentence does not include incarceration, the person may apply for reinstatement eight years from the date the department revoked the privileges or right to apply for privileges under this subsection. The department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) A person is entitled to administrative review of a revocation under this subsection.

(d) The provisions of this subsection do not apply to a person whose driving privileges are ordered revoked under ORS 809.235.

(2) Any degree of recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall suspend the driving privileges or right to apply for driving privileges.

(b) A person is entitled to administrative review of a suspension under this subsection.

(c) A suspension under this subsection shall be for a period described under Schedule I of ORS 809.420, except that the department shall not reinstate any driving privileges to the person until the person has complied with future responsibility filings.

(3) Perjury or the making of a false affidavit to the department under any law of this state requiring the registration of vehicles or regulating their operation on the highways constitutes grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall revoke the driving privileges or right to apply for driving privileges.

(b) The revocation shall be for a period of one year from the date of revocation except that the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) A person is entitled to administrative review of a revocation under this subsection.

(4) Any felony conviction with proof of a material element involving the operation of a motor vehicle constitutes grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall revoke the driving privileges or right to apply for driving privileges.

(b) The revocation shall be for a period of one year from the date of revocation except that the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) A person is entitled to administrative review of a revocation under this subsection.

(5) Failure to perform the duties of a driver to injured persons under ORS 811.705 constitutes grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall revoke the driving privileges or right to apply for driving privileges.

(b) Except as provided in paragraph (c) of this subsection, the revocation shall be for a period of one year from the date of revocation except that the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) If the court indicates on the record of conviction that a person was killed as a result of the accident, the revocation shall be for a period of five years. The person may apply for reinstatement of privileges five years after the date the person was released from incarceration. If the sentence does not include incarceration, the person may apply for reinstatement five years from the date the revocation was imposed under this subsection.

(d) A person is entitled to administrative review of a revocation under this subsection.

(6) Reckless driving constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall suspend the driving privileges or right to apply for driving privileges.

(b) The suspension shall be for the periods of time described under Schedule I of ORS 809.420 except that the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) A person is entitled to administrative review of a suspension under this subsection.

(7) Failure to perform duties of a driver when property is damaged under ORS 811.700 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction of an offense described in this subsection, the department shall suspend the driving privileges or right to apply for driving privileges.

(b) The suspension shall be for the periods of time described under Schedule I of ORS 809.420 except the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) A person is entitled to administrative review of a suspension under this subsection.

(8) Fleeing or attempting to elude a police officer under ORS 811.540 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a conviction for an offense described in this subsection, the department shall suspend the driving privileges or right to apply for driving privileges.

(b) The suspension shall be for a period described under Schedule I of ORS 809.420 except the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) A person is entitled to administrative review of a suspension under this subsection.

(9) Failure to file accident reports required under ORS 811.725 or 811.730 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department shall suspend the driving privileges or right to apply for driving privileges if the person fails to make the required accident reports.

(b) The suspension shall continue until the person makes the required reports or for five years from the date of suspension, whichever is sooner.

(10) Failure to make future responsibility filing described in this subsection constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department shall suspend the driving privileges or right to apply for driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or to provide new proof for future responsibility filings when requested by the department.

(b) The suspension shall continue until the person complies with future responsibility filings.

(c) A person whose initial obligation to make future responsibility filings is not based upon a conviction or other action by a court is entitled to a contested case hearing prior to a suspension under this subsection. A person whose obligation to make future responsibility filings is based upon a conviction or other action by a court is entitled to administrative review of a suspension under this subsection. A person whose suspension under this subsection is based

on lapses in filing after the initial filing has been made is entitled to administrative review.

(11) Failure to settle judgments as described in this subsection constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department shall suspend the driving privileges or right to apply for driving privileges if a person has a judgment of the type described under ORS 806.040 rendered against the person and the person does not settle the judgment in the manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person does one of the following:

(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer which has been found by the department to be obligated to pay the judgment provided that there has been no final adjudication by a court that such insurer has no such obligation.

(C) Gives evidence to the department that a period of seven years has elapsed since the entry of the judgment.

(D) Receives from the court that rendered the judgment an order permitting the payment thereof in installments.

(c) A person is entitled to administrative review of a suspension under this subsection.

(12) False certification of financial responsibility requirements constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department shall suspend the driving privileges or right to apply for driving privileges if a person falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or if a person, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) The department shall only suspend under this subsection if proof of compliance with financial responsibility requirements as of the date of the letter of verification from the department under ORS 806.150 is not submitted within 30 days after the date of the mailing of the department's demand therefor under ORS 806.160.

(c) The suspension shall continue until the person complies with future responsibility filings.

(13) Failure to take examination upon request of the department under ORS 807.340 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department shall suspend the driving privileges or right to apply for driving privileges of a person if the department requests the person to submit to examination under ORS 807.340 and the person fails to appear within a reasonable length of time after being notified to do so or fails to satisfactorily complete the required examination.

(b) The suspension shall continue until the examination required by the department is successfully completed.

(c) Upon suspension under this subsection, the department may issue an identification card to the person for identification purposes as described under ORS 807.400.

(14) Failure to obtain required medical clearance under ORS 807.070 or 807.090 upon request by the department constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department shall suspend the driving privileges of the person if the department requests the person to obtain medical clearance described by this subsection and the person fails to do so.

(b) The suspension under this subsection shall continue until the required medical clearance is received by the department.

(15) Causing or contributing to an accident resulting in death or injury to any other person or serious property damage through incompetence, recklessness, criminal negligence or unlawful operation of a motor vehicle constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of such person of crime if the department has reason to believe that the person may endanger people or property if not immediately suspended. Any suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440.

(b) A suspension under this subsection shall continue for a period determined by the department and be subject to any conditions the department determines necessary.

(16) Incompetence to drive a motor vehicle because of a mental or physical condition rendering it unsafe for a person to drive a motor vehicle upon the highways constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of such person of crime if the department has reason to believe that the person may endanger people or property if not immediately suspended. A suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440 except that a person who has submitted a certificate of eligibility under

ORS 807.090 is entitled only to administrative review of a suspension.

(b) A suspension under this subsection shall continue for a period determined by the department and be subject to any conditions the department determines necessary.

(17) Habitual incompetence, recklessness or criminal negligence of a driver of a motor vehicle or committing a serious violation of the motor vehicle laws of this state constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of such person of crime if the department has reason to believe that the person may endanger people or property if not immediately suspended. Any suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440.

(b) A suspension under this subsection shall continue for a period determined by the department and be subject to any conditions the department determines necessary.

(18) A conviction under ORS 811.700 or 811.705 for failure to perform the duties of a driver while operating a commercial motor vehicle or any conviction of a crime punishable as a felony involving the operation of a commercial motor vehicle constitutes grounds for commercial driver license suspension. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall suspend the commercial driver license or right to apply for a commercial driver license of the person convicted.

(b) The suspension shall be for a period of time according to the following:

(A) If the person's commercial driver license has not previously been suspended under this subsection, ORS 813.403 or 813.410 (2) and the person was not driving a commercial motor vehicle containing a hazardous material at the time the offense was committed, the suspension shall be for a period of one year.

(B) If the person's commercial driver license has not previously been suspended under this subsection, ORS 813.403 or 813.410 (2) and the person was driving a commercial motor vehicle containing a hazardous material at the time the offense was committed, the suspension shall be for a period of three years.

(C) If the person's commercial driver license has previously been suspended under this subsection, ORS 813.403 or 813.410 (2), the suspension shall be for the lifetime of the person.

(c) A person is entitled to administrative review of a suspension under this subsection.

(19) Use of a commercial motor vehicle in the commission of a crime punishable as a felony involving the manufacturing, distributing or dispensing of a controlled substance constitutes grounds for commercial driver license suspension. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the department shall suspend the commercial driver license or right to apply for a commercial driver license of the person convicted.

(b) The suspension shall be for the lifetime of the person.

(c) A person is entitled to administrative review of a suspension under this subsection.

(d) "Controlled substance" has the meaning given that term in ORS 475.005 (6).

(20) Incompetence to operate a motorcycle constitutes grounds for revocation of a motorcycle indorsement. The following apply to this subsection:

(a) Whenever the department has reason to believe an individual with a motorcycle indorsement under ORS 807.170 comes within the grounds described in this subsection, the department may revoke the indorsement.

(b) Upon revocation under this subsection, the license shall be surrendered to the department.

(c) Upon surrender of the indorsed license, the department may issue a license without indorsement for the unexpired period of the license.

(21) The department forthwith shall suspend the driving privileges of any person for a period of time required by this subsection if the person is involved in a motor vehicle accident at any time when the department determines the person has been operating a vehicle in violation of ORS 806.010. A suspension under this subsection shall be for a period of one year except that the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filing requirements.

(22) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive, the department shall immediately suspend the driving privileges of the released person. A suspension under this subsection is subject to administrative review and shall continue until such time as the person produces a judicial decree of competency or a certificate from the superintendent of the hospital that the person is competent or establishes eligibility under ORS 807.090.

(23) Upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity and committed to the jurisdiction of the Psychiatric Security Review Board, the department

shall immediately suspend the driving privileges of the person. A suspension under this subsection is subject to administrative review and shall continue until such time as the person establishes eligibility under ORS 807.090.

(24) The department shall suspend driving privileges when provided under ORS 809.290. The suspension shall continue until the earlier of the following:

(a) The person establishes to the satisfaction of the department that the person has performed all acts necessary under ORS 809.290 to make the person not subject to suspension.

(b) Five years from the date the suspension is imposed.

(c) A person is entitled to administrative review of a suspension under this subsection.

(25) Criminal trespass under ORS 164.245 that involves the operation of a motor vehicle constitutes grounds for suspension of driving privileges. The following apply to suspension on grounds described in this subsection:

(a) Upon receipt of a conviction for an offense described in this subsection, the department shall suspend the driving privileges or right to apply for driving privileges of the person convicted for a period of six months from the date of suspension.

(b) A person is entitled to administrative review of a suspension under this subsection.

(26) Agreements entered under ORS 802.530 may establish grounds and procedures for the suspension of driving privileges.

(27) Violation of restrictions placed on driving privileges under ORS 807.120 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The department immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of such person of crime if the department receives satisfactory evidence that the person has violated restrictions placed on the person's driving privileges. Any suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440.

(b) A suspension under this subsection shall continue for a period determined by the department, but in no event for longer than one year, and shall be subject to any conditions the department determines necessary.

(28) Upon receipt of a record of a person's second conviction of a serious traffic violation within a three-year period, the department shall suspend the person's commercial driver license or right to apply for a commercial driver license if the convictions arose out of separate incidents. A suspension under this subsection shall be for a period of 60 days. A person is entitled to administrative review of a suspension under this subsection.

(29) Upon receipt of a record of a person's third or subsequent conviction of a serious traffic violation within a three-year period, the department shall suspend the person's commercial driver license or right to apply for a commercial driver license if the convictions arose out of separate incidents. A suspension under this subsection shall be for a period of 120 days. A person is entitled to administrative review of a suspension under this subsection.

(30)(a) Upon receipt of a record of conviction of an offense described in ORS 809.310, the department shall, or upon determination by the department that the person has committed an act that constitutes such an offense, the department may suspend any driving privileges, any right to apply for privileges or any identification card of the person convicted or determined to have committed the act.

(b) A suspension under this subsection shall continue for a period of one year.

(c) A person is entitled to administrative review of a suspension under this subsection if the suspension is based upon a conviction. If the suspension is based upon a determination by the department, the person is entitled to a hearing as described in ORS 809.440.

(31) Except as otherwise provided in subsection (33) of this section, upon receipt of a first notice indicating that a person has violated an out-of-service order issued under ORS 813.050 or has knowingly violated any other out-of-service order or notice, the department shall suspend the person's commercial driver license or right to apply for a commercial driver license for a period of 90 days. For purposes of this subsection, "notice" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice. A person is entitled to administrative review of a suspension under this subsection.

(32) Except as otherwise provided in subsection (34) of this section, upon receipt of a second or subsequent notice within a 10-year period indicating that a person has violated an out-of-service order issued under ORS 813.050 or has knowingly violated any other out-of-service order or notice, the department shall suspend the person's commercial driver license or right to apply for a commercial driver license for a period of three years. For purposes of this subsection, "notice" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice. A person is entitled to administrative review of a suspension under this subsection.

(33) Upon receipt of a first notice indicating that a person has violated an out-of-service order while transporting hazardous materials required to be placarded, or while operating a motor vehicle designed to transport 16 or more persons, including the driver, the department shall suspend the person's commercial driver license or right to apply for a commercial driver license for a period of one year. For purposes of this subsection, "notice" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice. A person is entitled to administrative review of a suspension under this subsection.

(34) Upon receipt of a second or subsequent notice within a 10-year period indicating that a person has violated an out-of-service order, if the person was transporting hazardous materials required to be placarded, or was operating a motor vehicle designed to transport 16 or more persons, including the driver, then regardless of the load or kind of vehicle involved in the first notice, the department shall suspend the person's commercial driver license or right to apply for a commercial driver license for a period of five years. For purposes of this subsection, "notice" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice. A person is entitled to administrative review of a suspension under this subsection.

(35) Upon receipt of a record of a person's conviction of reckless endangerment of highway workers under ORS 811.231 (1), the department shall suspend the person's driving privileges or right to apply for driving privileges. The suspension shall be for periods of time described under Schedule I of ORS 809.420 except the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings. A person is entitled to administrative review of a suspension under this subsection.

(36) Upon notification by a school superintendent or a school district board under ORS 339.254, the department shall suspend the driving privileges of a person or the right to apply for driving privileges. The suspension shall be for the amount of time stated in the notice. A person is entitled to administrative review of a suspension under this subsection.

(37)(a) Assault in the second, third or fourth degree resulting from the operation of a motor vehicle constitutes grounds for suspension of driving privileges. Upon receipt of a record of conviction for assault in the second, third or fourth degree, the department shall suspend the driving privileges or right to apply for driving privileges of the person convicted.

(b) A person who is convicted of assault in the second degree and whose driving privileges or right to apply for driving privileges are suspended under this subsection may apply for reinstatement of driving privileges eight years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges eight years from the date the department suspended the privileges or right to apply for privileges under this subsection.

(c) A person who is convicted of assault in the third degree and whose driving privileges or right to apply for driving privileges are suspended under this subsection may apply for reinstatement of driving privileges five years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges five years from the date the department suspended the privileges or right to apply for privileges under this subsection.

(d) A person who is convicted of assault in the fourth degree and whose driving privileges or right to apply for driving privileges are suspended under this subsection may apply for reinstatement of driving privileges one year from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges or right to apply for driving privileges one year from the date the department suspended the privileges or right to apply for privileges under this subsection.

(e) The department shall not reinstate any driving privileges to the person whose privileges are suspended under this subsection until the person complies with future responsibility filings.

(f) A person is entitled to administrative review of a suspension under this subsection.

(38) Upon receipt of notification of a court order that a person's driving privileges or right to apply for driving privileges be suspended for violation of ORS 167.401, the department shall suspend the driving privileges or the right to apply for driving privileges of the person subject to the order for the time specified in the order. A person is entitled to administrative review of a suspension under this subsection.

(39) Withdrawal from school by a person under 18 years of age constitutes grounds for suspension of driving privileges. Upon receipt of a notice under ORS 339.257 that a person under 18 years of age has withdrawn from school, the department shall notify the person that driving privileges will be suspended on the 30th day following the

date of the notice unless the person presents documentation that complies with ORS 807.066. A suspension under this subsection shall continue until the person reaches 18 years of age or until the person presents documentation that complies with ORS 807.066. Appeals of a suspension under this subsection shall be as provided by a school district or private school under a policy adopted in accordance with ORS 339.257. [1983 c.338 §353; 1985 c.16 §166; 1985 c.301 §1; 1985 c.393 §10a; 1985 c.396 §6; 1985 c.669 §2a; 1985 c.714 §6; 1987 c.137 §4; 1987 c.258 §9; 1987 c.262 §4; 1989 c.224 §140; 1989 c.636 §31; 1989 c.715 §6; 1991 c.702 §10; 1993 c.393 §7; 1993 c.400 §2; 1993 c.627 §3; 1993 c.761 §4; 1995 c.79 §370; 1995 c.253 §5; 1995 c.656 §6; 1995 c.661 §1; 1997 c.83 §3; 1999 c.789 §6; 1999 c.796 §1; 1999 c.1077 §9; 2001 c.176 §5; 2001 c.294 §5; 2001 c.492 §9]

**Note:** Section 5, chapter 796, Oregon Laws 1999, provides:

**Sec. 5.** Notwithstanding section 3, chapter 661, Oregon Laws 1995:

(1) A person is not subject to the amendments to ORS 809.410 (1) by section 1, chapter 661, Oregon Laws 1995, if the person's driving privileges or right to apply for driving privileges were revoked under ORS 809.410 (1) and had been reinstated before September 9, 1995.

(2) Except as provided in subsection (3) of this section, a person whose driving privileges or right to apply for driving privileges were revoked under ORS 809.410 (1) and who was on parole, post-prison supervision or probation for the offense on September 9, 1995, may apply for reinstatement of driving privileges eight years after the date the original revocation was imposed.

(3) A person is eligible for suspension of driving privileges or for suspension of the right to apply for driving privileges under the terms and conditions provided in ORS 809.410 (38) (1999 Edition) if the person was convicted of assault in the second, third or fourth degree prior to July 20, 1999, and either:

(a) The person's driving privileges or right to apply for driving privileges were revoked under ORS 809.410 (1) because of the conviction and have not been reinstated; or

(b) A revocation under ORS 809.410 (1) because of the conviction is pending on July 20, 1999.

(4) If a person is eligible for suspension of driving privileges or suspension of the right to apply for driving privileges as provided in subsection (3) of this section, when the Department of Transportation receives an application from the person, the department shall change the revocation to a suspension under the terms and conditions provided in ORS 809.410 (38) (1999 Edition). For purposes of determining when a person may apply for reinstatement of driving privileges, the date the department suspended driving privileges or the right to apply for driving privileges is the date the department originally revoked the privileges or right to apply for privileges under ORS 809.410 (1) for a conviction of assault in the second, third or fourth degree. [1999 c.796 §5; 2001 c.176 §8]

**Note:** Section 3, chapter 661, Oregon Laws 1995, provides:

**Sec. 3.** This Act [amending 809.235 and 809.410] applies to persons convicted on or after the effective date of this Act [September 9, 1995] as well as to any person who, on the effective date of this Act, is incarcerated, on parole, on post-prison supervision or on probation for one of the offenses that subjects a person to the provisions of this Act. If a person subject to this Act is on parole, post-prison supervision or probation on the effective date of this Act, the period of revocation required by this Act shall begin on the effective date of this Act. [1995 c.661 §3]

**809.420 Schedule of suspension or revocation periods for certain offenses.** This section establishes schedules of suspension or revocation periods. The schedules are applicable upon conviction for the offense when made applicable under ORS 809.410 and 813.400. The schedules are as follows:

(1) Schedule I. The suspension or revocation periods under Schedule I are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) Ninety days for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) One year for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period. This paragraph applies to any combination of offenses for which the length of suspension is determined under this subsection.

(c) Three years for a third or subsequent offense where the commission of the third or subsequent offense and two or more convictions for separate offenses occur within a five-year period. This paragraph applies to any combination of offenses for which the length of suspension is determined under this subsection.

(2) Schedule II. The suspension or revocation periods under Schedule II are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) One year for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) Three years for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period.

(c) Three years for a third or subsequent offense, where the commission of the third or subsequent offense and a conviction for a separate offense occur within a five-year period. [1983 c.338 §354; 1987 c.547 §1; 1989 c.401 §1; 2001 c.294 §7]

**809.430 Notice of suspension, cancellation or revocation; contents; service.** (1) When the Department of Transportation, as authorized or required, suspends, revokes or cancels driving privileges, a commercial driver license or the right to apply for driving privileges or a commercial driver license, it shall give notice under this section of such action to the person whose driving privileges, commercial driver license or right to apply is affected.

(2) Notice under this section shall state the nature and reason for the action and, in the case of a suspension, whether it was ordered by a court.

(3) If violation of a suspension or revocation would constitute the offense described in ORS 811.182, service of notice of the suspension or revocation under this section is accomplished by:

(a) Mailing the notice by certified mail, restricted delivery, return receipt requested, to the person's address as shown by driver licensing records of the department; or

(b) Personal service in the same manner as a summons is served in an action at law.

(4) Service of notice under this section for all other actions is accomplished by:

(a) Mailing the notice by first class mail to the person's address as shown by driver licensing records of the department; or

(b) Personal service in the same manner as a summons is served in an action at law. [1983 c.338 §355; 1989 c.636 §36; 1989 c.801 §1; 1991 c.695 §1; 1993 c.741 §83]

**809.440 Hearing and administrative review procedures.** This section establishes hearing and administrative review procedures to be followed when the Department of Transportation is required to provide a hearing or an administrative review of an action.

(1) When other procedures described under this section are not applicable to a suspension or revocation under ORS 809.410, the procedures described in this subsection shall be applicable. All of the following apply to this subsection:

(a) The hearing shall be given before the department imposes the suspension or revocation of driving privileges or continues, modifies or extends a suspension or revocation.

(b) Before the hearing, the department shall notify the person in the manner described in ORS 809.430.

(c) The hearing shall be in the county where the person resides unless the person and the department agree otherwise.

(d) Upon such hearing, the department, good cause appearing therefor, may impose, continue, modify or extend the suspension or revocation of the driving privileges.

(e) The hearing shall be conducted by a hearing officer assigned from the Hearing Officer Panel established under section 3, chapter 849, Oregon Laws 1999.

(2) The following apply when administrative review is provided under any statute or rule of the department:

(a) An administrative review shall consist of an informal administrative process to assure prompt and careful review by the department of the documents upon which an action is based.

(b) It shall be a defense to the department's action if a petitioner can establish that:

(A) A conviction on which the department's action is based was for an offense that did not involve a motor vehicle and the department's action is permitted only if the offense involves a motor vehicle.

(B) An out-of-state conviction on which the department's action is based was for an offense that is not comparable to an offense under Oregon law.

(C) The records relied on by the department identify the wrong person.

(c) A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the action.

(d) Actions subject to administrative review shall be exempt from the provisions of ORS 183.310 to 183.550 applicable to contested cases, and from the provisions of subsection (4) of this section applicable to post-imposition hearings. A suspension, revocation or cancellation shall not be stayed during the administrative review process or by the filing of a petition for judicial review. A court having jurisdiction may order the suspension, revocation or cancellation stayed pending judicial review.

(e) Judicial review of a department order affirming a suspension or revocation after an administrative review shall

be available as for review of orders other than contested cases, and the department may not be subject to default for failure to appear in such proceedings. The department shall certify its record to the court within 20 days after service upon the department of the petition for judicial review.

(f) If the suspension or revocation is upheld on review by a court, the suspension or revocation shall be imposed for the length of time appropriate under the appropriate statute except that the time shall be reduced by any time prior to the determination by the court that the suspension or revocation was in effect and was not stayed.

(g) The department shall adopt any rules governing administrative review that are considered necessary or convenient by the department.

(3) When permitted under this section or under any other statute, a hearing may be expedited under procedures adopted by the department by rule. The procedures may include a limited time in which the person may request a hearing, requirements for telephone hearings, expedited procedures for issuing orders and expedited notice procedures.

(4) When permitted under ORS 809.410, a hearing may be a post-imposition hearing under this subsection. A post-imposition hearing is a hearing that occurs after the department imposes the suspension or revocation of driving privileges or continues, modifies or extends a suspension or revocation. All of the following apply to this subsection:

(a) The department must provide notice in the manner described in ORS 809.430 before the suspension or revocation may take effect.

(b) Except as provided in this subsection, the hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, the hearing shall be held either in the county where the person resides or at any place within 100 miles, as established by the department by rule.

(5) The department has complied with a requirement for a hearing or administrative review if the department has provided an opportunity for hearing or review and the person with the right to the hearing or review has not requested it. Any request for hearing or review must be made in writing.

(6) For any hearing described under this section, and for administrative review described under this section, no further notice need be given by the department if the suspension or revocation is based upon a conviction and the court gives notice, in a form established by the department, of the rights to a hearing or review and of the suspension or revocation. [1985 c.669 §4 (enacted in lieu of 1983 c.338 §§356,357); 1987 c.437 §1; 1989 c.636 §37; 1991 c.702 §3; 1997 c.249 §225; 1999 c.770 §6; 1999 c.849 §190]

**Note:** The amendments to 809.440 by section 191, chapter 849, Oregon Laws 1999, become operative January 1, 2004. See section 192, chapter 849, Oregon Laws 1999. The text that is operative on and after January 1, 2004, is set forth for the user's convenience.

**809.440.** This section establishes hearing and administrative review procedures to be followed when the Department of Transportation is required to provide a hearing or an administrative review of an action.

(1) When other procedures described under this section are not applicable to a suspension or revocation under ORS 809.410, the procedures described in this subsection shall be applicable. All of the following apply to this subsection:

(a) The hearing shall be given before the department imposes the suspension or revocation of driving privileges or continues, modifies or extends a suspension or revocation.

(b) Before the hearing, the department shall notify the person in the manner described in ORS 809.430.

(c) The hearing shall be conducted by a hearing officer designated by the department in the county where the person resides unless the person and the department agree otherwise.

(d) Upon such hearing, the department, good cause appearing therefor, may impose, continue, modify or extend the suspension or revocation of the driving privileges.

(2) The following apply when administrative review is provided under any statute or rule of the department:

(a) An administrative review shall consist of an informal administrative process to assure prompt and careful review by the department of the documents upon which an action is based.

(b) It shall be a defense to the department's action if a petitioner can establish that:

(A) A conviction on which the department's action is based was for an offense that did not involve a motor vehicle and the department's action is permitted only if the offense involves a motor vehicle.

(B) An out-of-state conviction on which the department's action is based was for an offense that is not comparable to an offense under Oregon law.

(C) The records relied on by the department identify the wrong person.

(c) A person requesting administrative review has the burden of showing by a preponderance of the evidence that

the person is not subject to the action.

(d) Actions subject to administrative review shall be exempt from the provisions of ORS 183.310 to 183.550 applicable to contested cases, and from the provisions of subsection (4) of this section applicable to post-imposition hearings. A suspension, revocation or cancellation shall not be stayed during the administrative review process or by the filing of a petition for judicial review. A court having jurisdiction may order the suspension, revocation or cancellation stayed pending judicial review.

(e) Judicial review of a department order affirming a suspension or revocation after an administrative review shall be available as for review of orders other than contested cases, and the department may not be subject to default for failure to appear in such proceedings. The department shall certify its record to the court within 20 days after service upon the department of the petition for judicial review.

(f) If the suspension or revocation is upheld on review by a court, the suspension or revocation shall be imposed for the length of time appropriate under the appropriate statute except that the time shall be reduced by any time prior to the determination by the court that the suspension or revocation was in effect and was not stayed.

(g) The department shall adopt any rules governing administrative review that are considered necessary or convenient by the department.

(3) When permitted under this section or under any other statute, a hearing may be expedited under procedures adopted by the department by rule. The procedures may include a limited time in which the person may request a hearing, requirements for telephone hearings, expedited procedures for issuing orders and expedited notice procedures.

(4) When permitted under ORS 809.410, a hearing may be a post-imposition hearing under this subsection. A post-imposition hearing is a hearing that occurs after the department imposes the suspension or revocation of driving privileges or continues, modifies or extends a suspension or revocation. All of the following apply to this subsection:

(a) The department must provide notice in the manner described in ORS 809.430 before the suspension or revocation may take effect.

(b) Except as provided in this subsection, the hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, the hearing shall be held either in the county where the person resides or at any place within 100 miles, as established by the department by rule.

(5) The department has complied with a requirement for a hearing or administrative review if the department has provided an opportunity for hearing or review and the person with the right to the hearing or review has not requested it. Any request for hearing or review must be made in writing.

(6) For any hearing described under this section, and for administrative review described under this section, no further notice need be given by the department if the suspension or revocation is based upon a conviction and the court gives notice, in a form established by the department, of the rights to a hearing or review and of the suspension or revocation.

**809.450 Rescission of suspension for financial and future responsibility violations; grounds; hearing.** (1) If a person whose driving privileges have been suspended for one of the reasons specified in subsection (2) of this section requests that the suspension be rescinded and specifies the reason for the request, the Department of Transportation may provide a hearing to determine the validity of the suspension. The department may rescind a suspension only as provided in subsection (3) of this section.

(2) This section applies to suspensions under ORS 809.410 for the following:

(a) Failure to make a future responsibility filing;

(b) False certification of financial responsibility requirements; and

(c) Involvement in a motor vehicle accident when the department has determined that the person has been operating a vehicle in violation of ORS 806.010.

(3) The granting of a hearing under this section shall not stay the suspension. However, the department shall rescind the suspension if the department determines:

(a) That an error was committed by the department;

(b) That the person in fact was in compliance with financial responsibility requirements as of the date of the department's letter of verification under ORS 806.150;

(c) That an error was committed by an insurance company in notifying the department regarding the correctness of a certification under ORS 806.150;

(d) That the person was not in compliance with financial responsibility requirements as of the date of the

department's letter of verification under ORS 806.150 and the department also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the department's letter of verification and that the person currently is in compliance with financial responsibility requirements; or

(e) That at the time of the accident the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements and the person is currently in compliance with financial responsibility requirements.

(4) The hearing shall be held in the manner provided in ORS 809.440. [1985 c.714 §11; 1987 c.258 §10]

**809.460 Rescission of suspension or revocation upon appeal of underlying conviction.** (1) Except as provided in subsection (4) of this section, if a suspension or revocation of driving privileges or right to apply for driving privileges is based upon a conviction, the court that entered the judgment of conviction may direct the Department of Transportation to rescind the suspension or revocation if:

(a) The person has appealed the conviction; and

(b) The person requests in writing that the court direct the department to rescind the suspension or revocation pending the outcome of the appeal.

(2) If directed by a court pursuant to subsection (1) of this section to do so, the department shall immediately rescind a suspension or revocation of driving privileges or the right to apply for driving privileges.

(3) The court shall notify the department immediately if the conviction is affirmed on appeal, the appeal is dismissed or the appeal is not perfected within the statutory period. Upon receipt of notice under this subsection, the department shall reimpose any suspension or revocation that has been rescinded under this section.

(4) If a person's commercial driver license or right to apply for a commercial driver license was suspended under ORS 809.410 or 813.403, the department shall not rescind suspension of the person's commercial driver license or right to apply for a commercial driver license because the person has taken an appeal, unless the conviction is reversed on appeal. [1983 c.338 §359; 1985 c.16 §174; 1989 c.636 §38; 1993 c.751 §61; 1997 c.347 §1]

**809.470 When judgment considered settled for purposes of suspension requirements.** (1) This section establishes when a judgment described under ORS 806.040 is settled for purposes of ORS 806.100, 809.130, 809.280 and 809.410. A judgment shall be deemed settled for the purposes described if any of the following occur:

(a) When payments in the amounts established by the payment schedule under ORS 806.070 have been credited upon any judgment or judgments rendered in excess of those amounts.

(b) When judgments rendered for less than the amounts established under ORS 806.070 have been satisfied.

(c) When the judgment creditor and the judgment debtor have mutually agreed upon a compromise settlement of the judgment.

(d) When the judgment against the judgment debtor has been discharged in bankruptcy.

(2) Payments made in settlement of any claims because of bodily injury, death or property damage arising from the accident shall be credited in reduction of the amounts provided for in subsection (1) of this section. [1983 c.338 §360; 1985 c.16 §175]

**809.480 Driver improvement programs; rules; purpose; suspension; fee.** (1) The Department of Transportation may establish, by administrative rule, programs for the improvement of the driving behavior of persons who drive in this state. The programs shall have as their goal the reduction of traffic convictions and especially accidents. The programs may include, but need not be limited to, letters, interviews and classroom instruction.

(2) The department may establish programs for persons who are under 18 years of age that are different from programs for adults. Differences may include, but need not be limited to, differences in criteria for entry into a program and differences in content.

(3) The department, under a program authorized by this section, may suspend driving privileges based on any of the following:

(a) A person's record of convictions or accidents.

(b) A person's failure or refusal to complete or comply with a requirement of a program established by the department under this section.

(4) The department may charge a reasonable fee to participants in a driver improvement program to cover costs of administration.

(5) Any suspension that the department stays under a driver improvement program in this section shall continue for

the full term of the suspension if a person fails to complete the program. For purposes of ORS 809.410 and 813.400 and for purposes of reinstating driving privileges, the stay of a suspension under this section shall not be used to determine the length of time a person's driving privileges have been suspended if the person does not successfully complete the program.

(6) A person is entitled to administrative review of a suspension imposed under this section if based on a conviction. [1983 c.338 §368; 1985 c.16 §190; 1991 c.702 §12; 2001 c.176 §2]

**809.490 Suspension or revocation of nonresident driver; reports to home state.** (1) If the defendant named in any certified copy of a judgment reported to the Department of Transportation is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident.

(2) The department, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offenses under the motor vehicle laws of this state, may forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(3) The department may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges to operate a motor vehicle of a resident of this state may be suspended or revoked.

(4) If the driving privileges of a nonresident are revoked or suspended, the department shall transmit a copy of the record of such action to the official in charge of the issuance of licenses in the state, territory, federal possession or district or province of Canada in which the nonresident resides, if the law of the other jurisdiction provides for action in relation thereto similar to that provided under ORS 809.400 for residents of this state whose driving privileges are suspended or revoked in another jurisdiction. [1983 c.338 §361; 1985 c.16 §176; 1985 c.173 §4]

**809.500 Failure to return suspended, revoked or canceled license; penalty.** (1) A person commits the offense of failure to return a suspended, revoked or canceled license if the person has driving privileges suspended and the person fails to immediately return to the Department of Transportation any license or driver permit issued by the department.

(2) If any person fails to return a license or driver permit on suspension, revocation or cancellation of the person's driving privileges, the department may request any peace officer to secure possession thereof and return it to the department.

(3) The offense described in this section, failure to return a suspended, revoked or canceled license, is a Class C misdemeanor. [1983 c.338 §363; 1985 c.16 §178; 1985 c.393 §11]

## HABITUAL OFFENDERS

**809.600 Number and kind of offenses.** This section establishes the number and kind of offenses necessary to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The number and kind of offenses necessary to revoke driving privileges as a habitual offender are as follows:

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

(a) Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

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

(c) Criminally driving a motor vehicle while suspended or revoked, under ORS 811.182.

(d) Reckless driving under ORS 811.140.

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

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

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

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

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

(3) A person's driving privileges shall not be revoked under subsection (2) of this section until the person's 21st

conviction within a five-year period when the 20th conviction occurs after a lapse of two years or more from the last preceding conviction.

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

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

(b) Any violation of offenses under any federal law or any law of another state, including subdivisions thereof, that substantially conforms to offenses described in this section. [1983 c.338 §365; 1985 c.16 §179; 1987 c.730 §17; 1987 c.887 §7; 1989 c.592 §6; 1991 c.601 §5; 1991 c.728 §4; 1995 c.209 §3; 1999 c.1051 §283; 2001 c.494 §1]

**809.605 Determination of which offenses count; rules.** The Department of Transportation shall adopt rules specifying which traffic offenses count for the purpose of determining that a person is a habitual offender under ORS 809.600 (2) because the person has been convicted of 20 or more traffic offenses. [2001 c.494 §3]

**Note:** Section 5, chapter 494, Oregon Laws 2001, provides:

**Sec. 5.** (1) A conviction obtained prior to the operative date of the amendments to ORS 809.600 (2) by section 1 of this 2001 Act [January 1, 2002], for an offense specified in ORS 809.600 (2) (1999 Edition) that is not an offense specified in rules of the Department of Transportation adopted under section 3 of this 2001 Act [809.605], shall be considered one of the 20 or more convictions required for habitual offender status under the same circumstances the conviction would have been considered if ORS 809.600 (2) had not been amended by section 1 of this 2001 Act.

(2) A conviction obtained prior to the operative date of section 3 of this 2001 Act [January 1, 2002] for an offense that is determined by the department by rule under section 3 of this 2001 Act to count for the purpose of determining habitual offender status, but that is not an offense listed in ORS 809.600 (2) (1999 Edition), shall not be considered one of the 20 or more convictions required for habitual offender status. [2001 c.494 §5]

**809.610 Restriction of driving privileges; notice; meeting.** (1) When the Department of Transportation receives an abstract of the conviction under ORS 810.375, and the conviction is the second one of those described by ORS 809.600 (1) for the person or the 19th of those described by ORS 809.600 (2) for the person, the department may restrict the person's driving privileges and shall send the person notice of the restrictions by first class mail.

(2) A person notified under subsection (1) of this section of restrictions placed on the person's driving privileges may request a meeting with a representative of the department to determine whether the restrictions may be lifted. [1985 c.16 §181; 1989 c.15 §1; 1999 c.1051 §284; 2001 c.104 §303; 2001 c.494 §6]

**809.620** [1985 c.16 §183; 1989 c.15 §2; repealed by 1991 c.702 §20]

**809.630** [1985 c.16 §185; repealed by 1991 c.702 §20]

**809.640 Procedures on habitual offender determination.** When the Department of Transportation determines from the driving record of a person as maintained by the department that a person's driving privileges are required to be revoked as a habitual offender under ORS 809.600, the department shall revoke the driving privileges of the person. A person is entitled to administrative review of a revocation under this section. [1983 c.338 §367; 1985 c.16 §187; 1991 c.702 §12a]

**809.650 Effect of habitual offender revocation.** (1) When the Department of Transportation revokes a person's driving privileges as a habitual offender under ORS 809.640, the person has no driving privileges for motor vehicles in this state and cannot obtain any driving privileges for motor vehicles in this state, except as provided under a probationary driver permit described under ORS 807.270, until the person:

(a) Is again eligible under this section for the issuance of driving privileges; and

(b) The department restores the privilege of the person to operate a motor vehicle in this state under ORS 809.660.

(2) A person whose driving privileges are revoked as a habitual offender is not eligible for the issuance of driving privileges until the expiration of five years from the date the driving privileges of the person were revoked. [1983 c.338 §366; 1985 c.16 §186]

**809.660 Restoration of privileges.** When a person whose driving privileges have been revoked as a habitual offender becomes eligible for issuance of driving privileges under ORS 809.650, the person may apply to the

Department of Transportation for restoration of the privilege to operate a motor vehicle in this state. Upon such petition, and for good cause shown, the department, in its discretion, may restore to the person the privilege to operate a motor vehicle in this state:

- (1) Upon such terms and conditions as the department may prescribe; and
- (2) Subject to other provisions of law relating to the issuance of driving privileges. [1985 c.16 §189]

## VEHICLE IMPOUNDMENT AND IMMOBILIZATION; SEIZURE AND FORFEITURE

**809.698 Definition of “vehicle immobilization device.”** As used in ORS 809.700 and 809.702, a “vehicle immobilization device” means a device that may be clamped and locked onto a part of a motor vehicle for the purpose of immobilizing the vehicle. [1997 c.540 §2; 1999 c.467 §1]

**809.700 Court-ordered impoundment or immobilization upon conviction; grounds; duration; vehicles subject; return; security interest holder rights.** A court may order a motor vehicle impounded or immobilized upon conviction for the traffic offenses described in this section. The authority to impound or immobilize a vehicle under this section is subject to all of the following:

- (1) The court may order a vehicle impounded or immobilized under this section when a person is convicted:
  - (a) For driving a motor vehicle while the person’s license is suspended or revoked in violation of ORS 811.175 or 811.182; or
  - (b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.
- (2) A vehicle may be impounded or immobilized under this section for not more than one year from judgment.
- (3) The following vehicles may be impounded under this section:
  - (a) Any motor vehicle of which the convicted person is the owner.
  - (b) Any motor vehicle which the convicted person is operating at the time of arrest.
- (4) A vehicle may be immobilized under this section if the vehicle is registered in this state and is a vehicle that may be impounded under subsection (3) of this section.
  - (5)(a) If a vehicle is ordered to be immobilized under this section and if the convicted person resides in the jurisdiction of the law enforcement agency that arrested the person for the offense described in subsection (1) of this section, the arresting law enforcement agency shall install a vehicle immobilization device on the vehicle. If the convicted person does not reside in the jurisdiction of the law enforcement agency that arrested the person, the sheriff of the county in which the person resides shall install the device.
    - (b) A vehicle ordered immobilized under this section shall be immobilized at the residence of the owner of the vehicle or at the location where the owner regularly parks the vehicle.
    - (c) A vehicle ordered immobilized under this section may be immobilized only in a location at which the vehicle may be legally stored for the period of the immobilization order. If no location is available at which the vehicle may be legally stored, the vehicle may be impounded for the period of the immobilization order.
    - (d) A vehicle owner who fails to allow installation of a vehicle immobilization device ordered under this section shall be subject to contempt of court proceedings under ORS 33.015 to 33.155.
  - (6)(a) If a vehicle is impounded under this section, the person convicted shall be liable for the expenses incurred in the removal and storage of the vehicle under this section, whether or not the vehicle is returned to the person convicted.
    - (b) If a vehicle is immobilized under this section, the person convicted shall be liable for the expenses incurred in installation and removal of the vehicle immobilization device and for rental of the device during the period the device is installed on the vehicle, whether or not the vehicle is released to the person convicted.
  - (7) A vehicle shall be released or returned to the person convicted or the owner only upon payment of the expenses incurred in the immobilization or removal and storage of the vehicle under this section.
  - (8) If a vehicle is not reclaimed within 30 days after the time set for the return of the vehicle in an impounding order or release of the vehicle in an immobilization order, the vehicle may be disposed of in accordance with procedures under ORS 819.180, 819.190, 819.210, 819.220 and 819.240 to 819.260.
  - (9) The court may order that a motor vehicle of which the convicted person is not the owner be impounded or immobilized under this section only if the court is satisfied by a preponderance of the evidence that the owner knew or had good reason to know that the convicted person:
    - (a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person;

or

(b) Was operating the vehicle while under the influence of intoxicants.

(10) The authority to impound or immobilize a vehicle under this section is subject to the rights of a security interest holder under a security agreement executed before an arrest for violation of an offense for which the vehicle may be impounded or immobilized under this section. A vehicle shall be released for the purpose of satisfying a security interest if:

(a) Request in writing is made to the court;

(b) If the vehicle has been impounded or immobilized, the security interest holder pays the expenses in removal and storage or in immobilization of the vehicle; and

(c) If the registration of the vehicle has been suspended under ORS 809.010, the security interest holder takes possession of the vehicle subject to the suspension of the registration remaining in effect against the registered owner.

(11) A security interest holder's obligation to pay and right to recover removal and storage or immobilization expenses under subsection (10) of this section are limited to the recovery of those removal and storage or immobilization expenses incurred during the initial 20-day period when the vehicle was in public storage or immobilized, unless the authority taking the vehicle into custody or immobilizing the vehicle under this section has transmitted by certified mail a written notice to the holder concerning the accrual of storage or immobilization expenses. If the vehicle is in private storage, the lien claimant shall transmit the written notice. [1983 c.338 §385; 1985 c.16 §200; 1987 c.730 §18; 1993 c.385 §3; 1997 c.540 §3; 1999 c.467 §2]

**809.702 Tampering with vehicle immobilization device; penalty.** (1) A person commits the offense of tampering with a vehicle immobilization device if the person does anything to a vehicle immobilization device that was ordered installed under ORS 809.700 that circumvents the operation of the device.

(2) The offense described in this section, tampering with a vehicle immobilization device, is a Class A traffic violation. [1997 c.540 §5; 1999 c.467 §3]

**809.710 Authority to refuse to release vehicle to intoxicated person.** Notwithstanding any other provision of law, a police officer, a police agency or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants. [Formerly 484.225]

**809.715** [Formerly 806.014; 1997 c.514 §5; repealed by 2001 c.748 §2]

**809.716 Hearing on impoundment.** (1) A person entitled to lawful possession of a vehicle impounded under ORS 809.720 may request a hearing to contest the validity of the impoundment. A request must be made within five calendar days after the date that notice of the impoundment is mailed, as evidenced by the postmark, not including Saturdays, Sundays or holidays. The request shall be made to a person designated by the impounding police agency to receive such requests.

(2) When a timely request for a hearing is made, a hearing shall be held before a hearings officer designated by the impounding police agency. The hearing shall be set for four calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing.

(3) The impounding police agency shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, 807.010, 811.175, 811.182 or 813.010. The police officer who ordered the vehicle impounded may submit an affidavit to the hearings officer in lieu of making a personal appearance at the hearing.

(4) If the hearings officer finds that the impoundment of the vehicle was proper, the hearings officer shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The hearings officer may also find the owner or person entitled to possession of the vehicle liable for costs of the hearing.

(5) If the hearings officer finds that impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the vehicle is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the vehicle for towing and storage charges, the hearings officer shall order it paid by the impounding police agency.

(6) A police agency may contract with another agency or entity to conduct hearings under this section. [Formerly 806.016; 1997 c.514 §4; 1999 c.1051 §284a; 2001 c.748 §3]

**809.720 Impoundment for specified offenses; grounds; notice; release.** (1) A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer. This subsection applies to the following offenses:

- (a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.
- (b) Driving while under the influence of intoxicants in violation of ORS 813.010.
- (c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.
- (d) Driving uninsured in violation of ORS 806.010.

(2) Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.

(3) A vehicle impounded under subsection (1) of this section shall be released to a person entitled to lawful possession upon compliance with the following:

- (a) Submission of proof that a person with valid driving privileges will be operating the vehicle;
- (b) Submission of proof of compliance with financial responsibility requirements for the vehicle; and
- (c) Payment to the police agency of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment.

(4) Notwithstanding subsection (3) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

(5) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (3) or (4) of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.

(6) Notwithstanding subsection (3) of this section, the holder of a towing business certificate issued under ORS 822.205 may foreclose a lien created by ORS 87.152 for the towing and storage charges incurred in the impoundment of the vehicle, without payment of the administrative fee under subsection (3)(c) of this section.

(7) Nothing in this section or ORS 809.716 limits either the authority of a city or county to adopt ordinances dealing with impounding of uninsured vehicles or the contents of such ordinances except that cities and counties shall comply with the notice requirements of subsection (2) of this section and ORS 809.725.

(8) A police agency may not collect its fee under subsection (3)(c) of this section from a holder of a towing business certificate issued under ORS 822.205 unless the holder has first collected payment of any towing and storage charges associated with the impoundment. [1997 c.514 §2; 2001 c.748 §1]

**Note:** Section 4, chapter 748, Oregon Laws 2001, provides:

**Sec. 4.** (1) The amendments to ORS 809.716 and 809.720 by sections 1 and 3 of this 2001 Act and the repeal of ORS 809.715 by section 2 of this 2001 Act apply to vehicles impounded on or after the effective date of this 2001 Act [January 1, 2002].

(2) A vehicle impounded pursuant to ORS 809.715 (1999 Edition) that has not been released or otherwise disposed of prior to the effective date of this 2001 Act shall be considered to have been impounded pursuant to ORS 809.720. [2001 c.748 4]

**809.725 Notice following impoundment under city or county ordinance.** (1) When a motor vehicle is impounded under authority of a city or county ordinance, the city or county shall give notice of the impoundment to the owners of the motor vehicle and to any lessors or security interest holders as shown on the records of the Department of Transportation. The notice shall be given within 48 hours of impoundment.

(2) The notice required by subsection (1) of this section shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle. [1997 c.514 §3]

**809.730 Seizure of motor vehicle for civil forfeiture.** (1) A motor vehicle may be seized for civil forfeiture if the person operating the vehicle is arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

- (a) Driving while under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction; or

(b) Murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction.

(2) All seizure and civil forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 475A. [1999 c.1100 §2; 2001 c.104 §304; 2001 c.780 §18]

**Note:** The amendments to 809.730 by section 18a, chapter 780, Oregon Laws 2001, become operative July 31, 2005. See section 18b, chapter 780, Oregon Laws 2001. The text that is operative on and after July 31, 2005, is set forth for the user's convenience.

**809.730.** (1) A motor vehicle may be seized and forfeited if the person operating the vehicle is arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

(a) Driving while under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction; or

(b) Murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction.

(2) All seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 475A.

**809.735 Preemption of local forfeiture ordinances.** (1) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city or county ordinance enacted and in effect on June 22, 1999, relating to forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(2) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city with a population exceeding 400,000 or a county with a population exceeding 500,000 from enacting, on or before January 1, 2000, an ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(3) Notwithstanding subsections (1) and (2) of this section, seizure and forfeiture procedures in a city or county ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730 shall be in accordance with ORS chapter 475A. [1999 c.1100 §3]

**Note:** 809.735 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.