

Chapter 825 — Motor Carriers

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## GENERAL PROVISIONS

### **825.005 Definitions.** As used in this chapter:

- (1) "Carrier" or "motor carrier" means for-hire carrier or private carrier.
- (2) "Cartage carrier" means any person who undertakes to transport any class of property by motor vehicle for compensation when the transportation is performed wholly within an incorporated city or a commercial zone adjacent to an incorporated city.
- (3) "Certificate" means an authority issued to a for-hire carrier under ORS 825.110.
- (4) "Combined weight" means the weight of the motor vehicle plus the weight of the maximum load which the applicant has declared such vehicle will carry. Any declared combined weight is subject to audit and approval by the Department of Transportation. The combined weight of motor buses or bus trailers is the light weight of the vehicle plus the weight of the maximum seating capacity including the driver's seat estimated at 170 pounds per seat, exclusive of emergency seats, except that transit-type motor vehicles may use 150 pounds per seat in determining combined weight. In cases where a bus has a seating capacity which is not arranged for separate or individual seats, 18 lineal inches of such capacity shall be deemed the equivalent of a passenger seat.
- (5) "Department" means the Department of Transportation.
- (6) "Extreme miles" or "extreme mileage" means the total miles operated by a vehicle over the public highways, except the extra miles necessarily operated in traversing detours or temporary routes on account of road blockades in the state.
- (7) "For-hire carrier" means:
  - (a) Any person who transports persons or property for hire or who publicly purports to be willing to transport persons or property for hire by motor vehicle; or
  - (b) Any person who leases, rents or otherwise provides a motor vehicle to the public and who in connection therewith in the regular course of business provides, procures or arranges for, directly, indirectly or by course of dealing, a driver or operator therefor.
- (8) "Motor vehicle" means any self-propelled vehicle and any such vehicle in combination with any trailing units, used or physically capable of being used upon any public highway in this state in the transportation of persons or property, except vehicles operating wholly on fixed rails or tracks and electric trolley buses. "Motor vehicle" includes overdimension vehicles or vehicles permitted excessive weights pursuant to a special authorization issued by a city, county or the Department of Transportation.
- (9) "Permit" means an authority issued to a carrier under ORS 825.102, 825.104, 825.106, 825.108 or 825.127.
- (10) "Private carrier" means any person who operates a motor vehicle over the public highways of this state for the purpose of transporting persons or property when the transportation is incidental to a primary business enterprise, other than transportation, in which such person is engaged.
- (11) "Privilege taxes" means the weight-mile tax and fees prescribed in this chapter.
- (12) "Property" includes, but is not limited to, permanent loads such as equipment, appliances, devices, or ballast that are attached to, carried on, or made a part of the vehicle and that are designed to serve some functional purpose.
- (13) "Public highway" means every street, alley, road, highway and thoroughfare in this state used by the public or dedicated or appropriated to public use.
- (14) "Safe for operation" means mechanical safety and compliance with rules regarding equipment and operation as are specified by law or by rule of the Department of Transportation.
- (15) "Transit-type motor vehicle" means any passenger-carrying vehicle that does not have a separate space for transporting baggage or express.
- (16) "Transporter" has the meaning given that term in ORS 466.005. [Formerly 767.005; 1997 c.275 §34]

**825.007 Policy.** (1) The business of operating as a motor carrier of persons or property for hire upon the highways of this state is declared to be a business affected with the public interest. It is hereby declared to be the state transportation policy to do the following:

- (a) Promote safe, adequate, economical and efficient service and to promote the conservation of energy.

- (b) Promote sound, economic conditions in transportation.
- (c) Encourage the establishment and maintenance of reasonable rates for transportation services, without unjust discriminations, undue preferences or advantages or unfair or destructive competitive practices.
- (d) Provide specific state action immunity against all antitrust claims and prosecution in those instances when carriers lawfully develop, publish and charge rates relating to the transportation of persons or household goods and joint line rates relating to the transportation of other property and provide services specifically prescribed and subject to regulation by the Department of Transportation and in those instances when carriers lawfully engage in prior consultation for purposes described in this paragraph.
  - (2) The volume of motor carrier traffic presents dangers and hazards on public highways and make it imperative that:
    - (a) Stringent rules be employed, to the end that the highways may be rendered safe for the use of the general public;
    - (b) The wear of such highways be controlled;
    - (c) A minimum of inconvenience to other users of the highways be effected;
    - (d) A minimum hindrance and stoppage to other users of the highways compatible with needs of the public for adequate transportation service, be effected;
    - (e) The highways be safeguarded from improper or unnecessary usage;
    - (f) Operation by irresponsible persons or any other operation threatening the safety of the public or detrimental to the general welfare be prevented;
    - (g) Congestion of traffic on the highways be minimized;
    - (h) The various transportation agencies of the state be adjusted and correlated so that public highways may serve the best interest of the general public; and
    - (i) A method of assessing privilege taxes be provided to enable the further construction of highways and to provide for the operation, preservation and maintenance of highways already built.
  - (3) The legislature hereby declares that to effect the ends and purposes listed in this section, this chapter is adopted. [Formerly 767.020]

**825.010 Compliance with chapter required.** No for-hire carrier or private carrier shall operate any motor vehicle for the transportation of persons or property, or both, on any public highway in this state except in accordance with the provisions of this chapter. [Formerly 767.040; 1997 c.275 §35]

## ECONOMIC AND SAFETY REGULATION

(Applicability)

**825.015 Nonapplicability of chapter to certain vehicles used in nonprofit transportation of passengers.** (1) This chapter does not apply to motor vehicles with a seating capacity of less than 16 persons while used in nonprofit operation for commuting to job, job training or educational facilities.

(2) For the purposes of this section, “nonprofit operation” means a voluntary commuter ridesharing arrangement that may charge a fee to defray expenses but remains nonprofit in its operation without reference to any entity that may sponsor it. In establishing the fee, the following items may be included as expenses:

- (a) The cost of acquiring the vehicle;
- (b) Insurance;
- (c) Maintenance of the vehicle;
- (d) Fuel; and
- (e) Other reasonable expenses attributable to use of the vehicle for ridesharing purposes. [Formerly 767.022]

**825.017 Nonapplicability of chapter to certain persons and vehicles.** Except as provided in ORS 825.026, this chapter does not apply to the persons or vehicles described in this section. The exemption under this section applies to the following persons and vehicles:

- (1) Vehicles being used by, or under contract with, any school board, district or person responsible for the administration of elementary or secondary school activities, and engaged exclusively in transporting students or combination of students and other persons to or from school or authorized school activities, or those activities sponsored by the State Board of Higher Education. This exemption shall not be affected by the charging of a fee to cover the costs of the transportation.
- (2) Vehicles being used in a taxicab operation if the vehicle:
  - (a) Is a passenger vehicle with a passenger seating capacity which does not exceed five;
  - (b) Carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time; and
  - (c) Is transporting persons or property, or both, between points in Oregon.
- (3) Vehicles being used for the transportation of property by private carrier by means of a single vehicle or combination of vehicles with a combined weight that does not exceed 8,000 pounds.
- (4) Vehicles being used in operating implements of husbandry.
- (5) Vehicles being used as a hearse or ambulance.

(6) Vehicles being used over any private road or thoroughfare.

(7) Vehicles being used on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products as defined in ORS 321.005, or the product of forest products converted to a form other than logs at or near the harvesting site, or when used for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with:

(a) An agency of the United States;

(b) The State Board of Forestry;

(c) The State Forester; or

(d) A licensee of an agency named in this subsection.

(8) Vehicles being used on any county road for the removal of forest products as defined in ORS 321.005, or the products of forest products converted to a form other than logs at or near the harvesting site, if:

(a) The use is pursuant to a written agreement entered into with the State Board of Forestry, the State Forester or an agency of the United States, authorizing the owner of the motor vehicle to use the road and requiring the owner to pay for or to perform the construction or maintenance of the county road, including any operator of a motor vehicle retained to transport logs, poles and piling for the owners who are exempt under this section;

(b) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of the county road; and

(c) Copies of the agreements or permits required by this subsection are filed with the Director of Transportation.

(9) Vehicles being used in the transportation of persons for hire if the operation:

(a) Is performed by a nonprofit entity;

(b) Is not in competition with a regular route full-service scheduled carrier of persons that is subject to the provisions of this chapter or a service provided by a mass transit district formed under ORS chapter 267;

(c) Is performed by use of vehicles operating in compliance with ORS 820.020 to 820.070;

(d) Is providing service with regularity under a plan of operation within a radius of 40 air miles of the designated point of origin; and

(e) Is approved by the Department of Transportation as complying with paragraphs (a) to (d) of this subsection.

(10) Vehicles being used in transporting disabled persons, with or without their supervisors or assistants, to or from rehabilitation facilities or child care services if the motor vehicle is a passenger motor vehicle with a seating capacity of not more than 12 passengers. The exemption provided by this subsection applies only when the motor vehicle is operated by or under contract with any person responsible for the administration of rehabilitation facilities as defined in ORS 344.710 to 344.730 or child care services provided by a facility licensed under ORS 657A.030 and 657A.250 to 657A.450.

(11) Vehicles owned or operated by the United States or by any governmental jurisdiction within the United States except when owned or operated as a carrier for hire.

(12) Vehicles owned or operated by a mass transit district created under ORS chapter 267.

(13) Vehicles owned or operated by persons when regularly operating over a rural or star route and engaged exclusively in the transportation of United States mail under contract with, or when the person is an employee of, the Postal Service. The person may transport additional property for consideration in the vehicle over the mail route not to exceed 200 pounds in weight for any one delivery.

(14) Vehicles owned or operated by, or under contract with, a person responsible for the construction or reconstruction of a highway under contract with the Department of Transportation or with an agency of the United States when operated within the immediate construction project as described in the governmental agency contract during the construction period.

(15) Vehicles owned or operated by, or under contract with, a charitable organization when exclusively engaged in performing transportation, either one way or round trip, necessary to the operation of the charitable organization. As used in this subsection, "charitable organization" means an organization that has no capital stock and no provision for making dividends or profits, but derives its funds principally from public and private charity and holds them in trust for the promotion of the welfare of others and not for profit. Any organization claiming an exemption under this subsection shall file an affidavit with the department stating that it is organized and operated in accordance with the requirements of this subsection.

(16) A person who provides services relating to the packing or movement of personal property if the person does not directly or indirectly provide a motor vehicle for the movement of the property and if the person does not act as an agent for any person who does provide a motor vehicle for movement of the property.

(17) Vehicles owned or operated by a person prior to the time the vehicle is placed in commercial operation.

(18) Vehicles with a maximum speed that does not exceed 35 miles per hour that are designed for off-road use and that are operated on the public highways in any one calendar year a number of miles that does not exceed 15 percent of the total number of miles the vehicle is operated for that calendar year.

(19) Passenger vehicles with a passenger seating capacity that does not exceed five when used in the transportation of new telephone books.

(20) Vehicles being used for the transportation of persons by private carrier by means of a single vehicle or combination of vehicles with a combined weight that does not exceed 12,000 pounds.

(21) A vehicle that is used in a limousine service operation in which the destination and route traveled may be controlled by the passenger and the fare is calculated on the basis of any combination of initial fee, distance traveled and waiting time if the vehicle:

- (a) Is driven by a licensed chauffeur;
- (b) Is a passenger vehicle with a passenger seating capacity that does not exceed eight;
- (c) Carries passengers for hire between points in Oregon; and
- (d) Operates on an irregular route basis.

(22) A person transporting the person's own commercial fishing boat if the combined weight of the vehicle, trailer and boat is 15,000 pounds or less.

(23) Vehicles being used for the purposes of forest protection and fire suppression if the vehicles are necessary in order to comply with ORS 477.615 or 477.650 or a similar federal statute. The exemption under this subsection also applies to the vehicles described being moved to or from the work area.

(24) Fire trucks and rescue vehicles that are designated as emergency vehicles by the Department of Transportation under ORS 801.260, while involved in emergency and related operations. [Formerly 767.025; 1997 c.275 §40; 1997 c.699 §1]

**825.018 Report from owners or operators of vehicles exempted by ORS 825.017; rules.** Owners or operators of vehicles exempt from the provisions of ORS chapter 825 by ORS 825.017 shall file an annual report with the Department of Transportation showing the miles of travel by registered weight class of vehicle for each exempt vehicle. The department shall determine by rule the form and manner of the report. [Formerly 767.026]

**825.020 Applicability of chapter to certain vehicles and combinations over 26,000 pounds.** Except as otherwise provided in this section, this chapter does not apply to the persons or vehicles described in this section. The provisions of ORS 825.100, 825.137, 825.139, 825.141, 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), 825.212, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498, 825.504, 825.506, 825.507, 825.508 and 825.515 apply to any of the following vehicles or combinations of vehicles with a combined weight of more than 26,000 pounds:

(1) Vehicles being used exclusively in the transportation of United States mail on a trip basis.

(2) Vehicles being used in the transportation of persons for hire, in vehicles with a seating capacity of more than five persons, within a city and within three air miles of the city. When the three air mile radius extends into the corporate limits of another city, the two cities shall be considered as one city for the purposes of this subsection. The following apply to this subsection:

(a) Service may also be provided to or from any area surrounding the area described under this subsection so long as the service does not compete with a carrier granted authority by the Department of Transportation under this chapter to operate in that surrounding area.

(b) Any vehicle exempt from the provisions of this chapter under this subsection is subject to regulation by the city or cities in which it is operated.

(3) Vehicles being used for the purpose of transporting persons or property in connection with the patrolling of forests for the prevention or fighting of forest fires.

(4) Vehicles being used in towing or otherwise transporting vehicles at the direction of a police officer or in servicing, towing or transporting wrecked or disabled vehicles, or in towing or transporting a replacement vehicle for such wrecked or disabled vehicle if the vehicle:

(a) Is not otherwise used in transporting goods and merchandise for compensation; and

(b) In the case of towing, is specially constructed for that use or has a combined weight not exceeding 8,000 pounds.

(5) Vehicles being used by a for-hire carrier to transport within this state free or at reduced rates:

(a) The carrier's officers, agents or employees, or dependent members of the families of those individuals, or the personal effects or household goods of those individuals.

(b) Ministers of religions, inmates of hospitals and individuals exclusively engaged in charitable and eleemosynary work.

(c) Indigent, destitute and homeless individuals and the necessary agents employed in the transportation.

(d) Witnesses attending legal investigations in which the carrier is interested.

(e) Persons injured in wrecks and physicians and nurses attending those persons.

(f) Persons providing relief in cases of general epidemic, pestilence or other emergency.

(g) Persons traveling under commuter, party or excursion passenger tickets, if available to all persons applying under like circumstances or conditions.

(h) Persons traveling under an exchange of passes between for-hire carriers.

(6) Vehicles being used to transport plants, artificial and natural flowers and accompanying florist accessories in movements originating at retail shops.

(7) Any vehicle used by a person licensed under ORS 508.235 while the person is transporting the person's own, unsold catch of fish from the point of landing to the first point where fish from the catch will be sold, placed in storage or processed in any way.

(8) Vehicles owned or operated by truck leasing companies operated empty over the public highways for the purpose of relocation of equipment. This exemption does not apply to motor vehicles operated empty as a result of or for the purpose of transporting passengers or property. [Formerly 767.027]

**825.022 Nonapplicability of certain provisions to vehicles and combinations of 26,000 pounds or less.** The provisions

of ORS 825.104, 825.160, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496 and 825.515 do not apply to any vehicle or combination of vehicles with a combined weight of 26,000 pounds or less. [Formerly 767.028]

**825.024 Applicability to farm vehicles.** (1) Except as provided in ORS 825.026 or as otherwise provided in this section, this chapter does not apply to a motor vehicle or combination owned or leased by a farmer who meets the qualifications under ORS 805.310 if the vehicle or combination:

(a) Is used for transportation described under ORS 805.390.

(b) Is used for transporting sand, gravel, rock, dirt, debris, cinders or asphaltic concrete mix to a project of a district or corporation organized under ORS chapter 545, 547 or 554 when the project is being constructed on land owned or leased by the farmer and the materials are directly related to the construction of the project.

(c) Has three or fewer permanent axles and is used in part to provide transportation services for hire when such services relate to the farm of another and are services that the vehicle owner could perform in the operation of the owner's farm under farm vehicle registration issued under ORS 805.300 or with the farm device issued under ORS 805.400. For purposes of this paragraph, a single drop axle is not a permanent axle.

(d) Is a combination of a pickup truck and a trailer and is used in part to provide transportation services for hire when such services relate to the farm of another and are services that the vehicle owner could perform in the operation of the owner's farm under farm vehicle registration issued under ORS 805.300 or with the farm device issued under ORS 805.400.

(2) Vehicles or combinations that have a combined weight of more than 80,000 pounds and that either are registered under ORS 805.300 or have a farm device issued under ORS 805.400 are subject to the provisions of ORS 825.210, 825.250 and 825.252.

(3) Any farmer with a vehicle registered under ORS 805.300, or with a farm device issued under ORS 805.400, may obtain a permit under ORS 825.102 that will authorize partial use of the vehicle to provide transportation services for hire.

(4) Any person issued a permit as described in subsection (3) of this section must comply with record keeping requirements and reporting requirements that the Department of Transportation determines necessary for the department to administer this section. The department may deny the exemptions from provisions of this chapter provided to persons issued permits as described in subsection (3) of this section if a person fails to comply with record keeping requirements. [Formerly 767.030; 1997 c.249 §262; 1997 c.673 §1]

**825.026 Applicability of chapter to certain otherwise exempt vehicles when transporting hazardous wastes.** This chapter does not apply to the vehicles described in ORS 825.017 and 825.024 except that the vehicles are subject to ORS 825.258 and 825.990 (3) and (4) and the rules adopted by the Department of Transportation relating to the safety of the vehicles while engaged in the transportation of hazardous wastes on public highways. [Formerly 767.032]

**825.028 Transportation services for charitable organizations.** (1) For-hire carriers may provide transportation of persons or household goods for charitable organizations or civic nonprofit organizations and festivals at no charge or at reduced rates or in exchange for promotional services by the charitable organization or civic nonprofit organization or festival.

(2) As used in this section:

(a) "Charitable organization" has the meaning given for that term in ORS 825.017 (15).

(b) "Civic nonprofit organization" or "festival" means an organization or festival classified under the Internal Revenue Code as having a 501(c)(3) or 501(c)(4) tax exempt status. [Formerly 767.038]

**825.030 Application of chapter to interstate and foreign commerce.** This chapter applies to interstate and foreign commerce, except insofar as it may be in conflict with the provisions of the Constitution and the laws of the United States. [Formerly 767.045]

(Certificates and Permits)

**825.100 Certificate or permit required for commercial transportation of persons or property on public highways.** No person shall operate any motor vehicle, whether loaded or empty, on any highway in this state as a carrier in the transportation of persons or property without possessing, in addition to any license required by any other law, a valid certificate or permit from the Department of Transportation authorizing the proposed operation. Each operation of a motor vehicle in violation of this section is a separate violation, whether the prohibited operations occur within the same day or different days or relate to the same motor vehicle or different motor vehicles. [Formerly 767.105]

**825.102 Issuance of permits to intrastate for-hire carriers.** (1) Except as provided in subsection (6) of this section and ORS 825.135, the Department of Transportation shall issue a permit to a person to provide transportation as a for-hire carrier over any highway in this state in intrastate commerce if the person applies for the permit and the department is satisfied that the person is able to comply with the provisions of this chapter and the rules of the department.

(2) In deciding whether to approve an application for a permit under this section, the department shall consider any evidence demonstrating that the applicant is unable to comply with this chapter and the rules of the department and shall deny

the application if the applicant does not meet the financial responsibility and safety requirements established by this chapter and by rules of the department.

(3) If an application for a permit under this section is denied, the department shall notify the applicant of the reasons for denial. The applicant is entitled to a hearing if written request for a hearing is made within 15 days of the notification of denial.

(4) A permit granted under this section is not transferable. The department shall determine by rule what constitutes transfer of a permit.

(5) A permit issued under this section may be suspended or revoked as provided in this chapter. Grounds for suspension or revocation include, but are not limited to, failure to maintain compliance with safety requirements, failure to maintain compliance with financial responsibility requirements and failure to report or pay fees, taxes or penalties due the department.

(6) A permit shall not be granted under this section for transportation of persons by a regular route full-service scheduled carrier or for transportation of household goods. Regular route full-service scheduled carriers of persons and carriers of household goods are subject to the certificate provisions of ORS 825.110. [1995 c.306 §2]

**825.104 Issuance of permits to interstate carriers.** (1) A for-hire or private carrier engaged or to engage in interstate operations shall apply to the Department of Transportation for a permit.

(2) The department shall issue a permit to the carrier without a hearing and as a matter of course if:

(a) The carrier files with the department a statement that its operations either are authorized by the United States Department of Transportation or are exempt from such regulation; and

(b) The carrier furnishes to the department either evidence of coverage by public liability or property damage insurance, as required by ORS 825.160 to 825.166, or evidence that it qualifies as a self-insurer under ORS 825.168.

(3) No for-hire or private carrier engaged or to engage in interstate operations shall perform any transportation service upon the public highways of this state without first having applied for and secured a permit in compliance with subsection (1) of this section. [Formerly 767.155; 2001 c.335 §4]

**825.106 Issuance of permits to carriers described in ORS 825.020.** Upon receipt of the information in writing required by the application form for permits in that class and in compliance with the law, rules and regulations of the Department of Transportation, permits shall be issued to motor carriers described in ORS 825.020, conditioned that the proposed operation will not be attended with substantial damage to the highway or danger to the users thereof, to adjacent property or facilities or to the public. The applicant is entitled to a hearing by the department if the application has been declined by the department. [Formerly 767.157]

**825.108 Issuance of permits to private carriers; exception.** (1) Upon receipt of the information in writing required by the application form for permits in that class and in compliance with the law and the rules and regulations of the Department of Transportation, permits shall be issued to private carriers, conditioned that the proposed operation will not be attended with substantial damage to the highway or danger to the users thereof, to adjacent property or facilities or to the public. The applicant is entitled to a hearing by the department if the application has been declined by the department.

(2) A person acting as a private carrier need not obtain a permit from the department for operating any vehicle or combination of vehicles with a combined weight of 26,000 pounds or less. [Formerly 767.150]

**825.110 Issuance of certificates to carriers of household goods and certain carriers of passengers; hearings; findings; transfer procedure.** (1) When a person files with the Department of Transportation an application for a certificate to operate as a for-hire regular route full-service scheduled carrier of persons as described in ORS 825.234 or as a for-hire carrier of household goods, for the extension of an existing certificate, or for the transfer of a certificate, the department shall serve notice of the application upon every person who has an application filed and pending before the department to serve the territory proposed to be served by the applicant, or who holds a certificate to serve that territory. If any person desires to protest the issuance, extension or transfer of the certificate, the person may file notice thereof with the department within 15 days from the date of service of the notice of application. The department thereupon shall fix a time and place for a hearing upon the application, and shall serve notice of the hearing upon the applicant and any person who has filed a protest. For the purpose of being properly and fully informed, the department may hold a hearing on an application although no protest is filed.

(2) If no person protests within the time provided in subsection (1) of this section, the department may order the issuance, transfer or extension of the certificate without a hearing, if the applicant shows compliance with subsection (4)(a), (b) and (d) to (f) of this section.

(3) If all protests to the application are withdrawn prior to the closing of the record, the department may order the issuance or transfer of the certificate if the applicant shows compliance with subsection (4)(a), (b) and (d) to (f) of this section.

(4) If the application for issuance or transfer of a certificate is the subject of a hearing, the department shall issue the certificate if the applicant has complied with this chapter and the rules of the department, and if the department finds from the record and the evidence submitted at the hearing that:

(a) The applicant is fit, willing and able properly to perform the service proposed;

(b) The applicant has certified that the vehicles listed on the application comply with all Oregon laws and rules covering vehicle safety and operations and will be so maintained;

(c) The service proposed, to the extent authorized, is or will be required by the present or future public convenience and

necessity or in case of proceedings under ORS 825.129 if the department finds the assignment or other transfer is in the public interest;

(d) The service proposed will not be attended with substantial damage to the highways or danger to other highway users or to the public;

(e) The rates, schedules or contracts proposed by the applicant, if an intrastate operator, are approved by the department; and

(f) The applicant can and will furnish and file the insurance, bond or substitute security or qualify as self-insurer as provided in this chapter.

(5) If the application for issuance or transfer of a certificate is the subject of a hearing, and if the department does not find that all the conditions provided in subsection (4) of this section are satisfied, the department may deny the application or may order that issuance of the certificate be deferred pending compliance by the applicant with those conditions provided in subsection (4) of this section specified in the order.

(6) If the applicant fails to appear at the time and place fixed for the hearing, the application may be denied.

(7)(a) Pending determination of application for transfer of a certificate, the department, without hearing, may grant approval of the temporary operation of the certificate by the prospective transferee, or, if the transferor's service to the public may be substantially impaired, may authorize temporary management of the transferor's motor carrier operations by the prospective transferee.

(b) Service performed under any temporary authority granted under this section is subject to all provisions of this chapter and the rules of the department.

(c) Service performed under any temporary authority granted under this section creates no presumption that transfer of the certificate is required by the public convenience and necessity or is in the public interest.

(d) Evidence of operation under a temporary authority as provided in this section is not admissible to show the extent of utilization of the certificate to be transferred. [Formerly 767.135]

**825.115 Temporary authority to provide transportation services; request; protest; duration; renewal; procedure to obtain permanent authority.** (1) The Department of Transportation may grant temporary authority for a for-hire carrier to provide transportation of persons or household goods where it is shown that a need exists for such service. Such temporary authority may be authorized only if the department receives a request for service from a user of the proposed transportation service, and if the department concludes, after investigation, that the request represents a true need.

(2) The department shall provide for protest and hearing under ORS 825.110 within 90 days after temporary authority is issued under this section. The department shall cancel immediately any temporary authority granted under this section if the department determines at hearing that the authority does not comply with requirements for grant of authority under ORS 825.110.

(3) The department shall not grant temporary authority under this section for an initial period of more than six months.

(4) The department may renew temporary authority granted under this section one time for a period of not more than six months.

(5) A person who is granted temporary authority under this section may apply for permanent authority to provide the transportation after the expiration of the temporary authority by making application in the manner provided for application for permanent authority under this chapter.

(6) A grant of temporary authority under this section does not establish any right to a grant of permanent authority under this chapter, but a carrier may use evidence from operation under temporary authority under this section to establish a need for transportation services and to establish an ability to provide those services. [Formerly 767.167]

**825.117 Emergency authority for transportation without hearing.** (1) If any condition or emergency arises requiring relief in cases of general epidemic, pestilence or other calamitous visitation in the state or any community therein, wherein the public or community interest or the transportation of any persons or household goods requires, in the opinion of the Department of Transportation, the issuance of a certificate for emergency transportation service, the department may issue an emergency certificate therefor, without hearing or order, the term of which shall be limited to a reasonable time to be determined by the department under the circumstances.

(2) The department may issue an emergency certificate without hearing or order for transportation services donated for the benefit of a charitable organization, if the services are transportation of persons or household goods and the services are not of a type ordinarily required in the operation of the organization. Notwithstanding any other provision of this chapter, a certificate issued pursuant to this subsection shall be issued without charge to the applicant. As used in this subsection "charitable organization" means any person organized and existing for religious or medical purposes or any political subdivision of this state.

(3) The emergency authority issued under this section will not convey any right to permanent authority or be evidence of a need for permanent authority. [Formerly 767.170]

**825.125 Applications for authority; rules.** The Department of Transportation shall prescribe forms of applications for certificates or permits for the use of applicants and shall make regulations for the filing thereof. [Formerly 767.125]

**825.127 When hearing and order not required.** Hearing and order are not required for the issuance of a permit to a for-hire carrier engaged in performing local cartage of household goods within areas designated by the Department of Transportation pursuant to ORS 825.240. [Formerly 767.145]

**825.129 Legal status of certificates.** (1) Notwithstanding any provision of law, no certificate issued under this chapter, or any prior law, shall be assigned or otherwise transferred except as provided in ORS 825.110.

(2) No such certificate shall be construed to be a franchise or irrevocable or exclusive or to possess value for ratemaking purposes. However, upon the death of an individual holding a certificate:

(a) If the estate of such individual is admitted to probate, the executor or personal representative may continue the operation thereunder, for the purpose of transferring the certificate, for a period not to exceed two years from the date of death; or

(b) If the estate of such individual is not probated, all the heirs of the deceased holder of the certificate may file with the Department of Transportation an application for the transfer of the certificate together with an affidavit signed by the heirs stating the name of the person to whom the certificate is to be transferred. If any heir has not reached the age of majority or is otherwise legally incapacitated, the heir's parent or guardian shall sign for the heir. The affidavit shall be on a form prescribed and furnished by the department. Subject to the provisions of ORS 825.135, the department shall transfer the certificate to the person named as transferee in the affidavit.

(3) In determining the scope of authority to be transferred under subsection (2) of this section, the department shall consider, as evidence of past use under the certificate, only the services furnished during the two-year period immediately preceding the death of the certificate holder.

(4) If an application under subsection (2) of this section for the transfer of the certificate is not filed within 18 months of the date of death, and if such certificate is not transferred within two years of the date of death, the certificate shall be deemed automatically revoked. [Formerly 767.186; 1997 c.275 §36]

**825.135 Denial of certificate, permit, transfer or extension of authority; hearing; restriction.** (1) Notwithstanding any other provision of law, an applicant shall not be granted a certificate, permit, transfer of any operating authority, extension of any operating authority or variance permit under ORS chapter 818 if the Department of Transportation has reasonable grounds to believe, based on information contained in department files and records, or based on evidence presented either during hearing held under the provisions of ORS 825.110 or during hearing with respect to an application filed under ORS 825.102, that any of the following apply:

(a) The applicant is not capable of conducting the transportation service contemplated, in compliance with the law and rules of the department.

(b) The applicant is or has been a repeated and intentional violator of the provisions of this chapter, of ORS chapter 818 or of the rules of the department. This paragraph does not apply to violations for which an applicant has been penalized under subsection (3) of this section.

(c) The information contained in the application pertaining to ownership, possession or control of the equipment or operation to be conducted is false.

(2) As used in this section "applicant" includes, but is not necessarily limited to, any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the carrier's authority.

(3) A person whose application has been denied under subsection (1) of this section shall not be eligible to renew the application or to operate or participate directly or indirectly in the proposed operation for a period of time ordered by the department. The period of time ordered by the department under this subsection shall in no event be less than a period of six months from the date application has been denied and shall continue until the applicant has complied with any other penalties ordered by the department under this or other provisions of this chapter. An applicant may renew an application without prejudice by past violations after the penalty period under this subsection.

(4) Upon request, any person whose application has been denied under subsection (1) of this section shall be granted a hearing. This subsection does not require a separate or additional hearing for applicants if the issues are addressed as part of any hearing on the application. After the hearing, the department shall grant or deny the application in conformity with the findings.

(5) Subsection (1) of this section shall be strictly construed for purposes described in this subsection and shall control over any other purposes or policy considerations under the laws relating to motor carriers. The department shall exercise the authority granted under subsection (1) of this section to assure that persons described in subsection (1)(b) of this section:

(a) Achieve an awareness of and respect for the provisions of this chapter, ORS chapter 818 and rules of the department.

(b) Do not legitimize activities that violate this chapter, ORS chapter 818 or the rules of the department by applying for and receiving any operating authority to continue previously unlawful activities.

(6) If the department determines that a carrier issued authority under this chapter is not providing requested transportation services that are within the authority of the carrier, the department shall limit the authority of the carrier to service that the carrier is actually providing unless the carrier provides full transportation services permitted under the carrier's authority.

[Formerly 767.130; 1997 c.722 §4]

**825.137 Cancellation, revocation or suspension of authority, generally.** (1) Certificates and permits when issued shall be valid until suspended or revoked when the carrier is found by the Department of Transportation to be in violation of this

chapter or ORS chapter 818. A variance permit issued under ORS chapter 818 shall be valid for the length of time for which it is issued unless prior to that time the permit is suspended or revoked by the Department of Transportation for violation of this chapter or ORS chapter 818.

(2) Certificates or permits, or variance permits issued pursuant to ORS chapter 818, may be suspended or canceled by the department based upon the department's own motion after notice and hearing, when the certificate or permit holder:

(a) Or agents or employees of the holder have repeatedly violated this chapter or other highway or motor laws of this state. In applying this paragraph the department may consider violations by agents or employees of the holder that occurred prior to the time they became agents or employees of the holder, but only if the agent or employee has a substantial interest or control, directly or indirectly, in or over the operation of the holder.

(b) Has repeatedly violated or avoided any order or rule of the department.

(c) Is a transporter of persons or household goods and has repeatedly made unlawful rebates or repeatedly underestimated transportation charges to clients.

(d) Has repeatedly refused or has repeatedly failed, after being requested to do so, to furnish service authorized by certificate. The department in such cases may also, in the discretion of the department, restrict the certificate to conform with operations conducted.

(e) Has not, except for reasons beyond the control of the holder, transported persons or household goods authorized by the certificate for a period exceeding 180 consecutive days immediately preceding the filing of the complaint in the proceeding. The department in these cases may also, in the discretion of the department, restrict the certificate to conform with operations performed that were required by the public convenience and necessity.

(f) Has not, except for reasons beyond the control of the holder, transported property or persons authorized by the permit for a period exceeding one year immediately preceding the filing of the complaint in the proceeding.

(g) Has refused, or has failed, within the time provided, to file the annual report required by ORS 825.320 or has failed or refused to maintain records required by the department or to produce such records for examination within the time set by the department.

(h) Has failed to appear for hearing after notice that the certificate or permit is under investigation.

(i) Has filed with the department an application which is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.

(3) The department shall not suspend or revoke a certificate or permit of a vehicle or person described in ORS 825.020 unless the person or vehicle is in violation of this section and ORS 825.139, 825.141, 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), 825.212, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498, 825.504, 825.506, 825.507, 825.508 or 825.515. [Formerly 767.190; 1997 c.275 §37; 1997 c.722 §5; 1999 c.59 §249]

**825.139 Suspension or cancellation of authority for tax delinquency or failure to file bond; notice; hearings.** (1) A certificate or permit is subject to suspension or cancellation, if the holder thereof:

(a) Is delinquent in reporting or paying any fees, taxes or penalties due the Department of Transportation, whether imposed under this chapter or under ORS chapter 826; or

(b) Has refused or failed, within the time provided, to file a deposit or bond requested under ORS 825.506.

(2) A written 10-day notice of suspension shall be given to the certificate or permit holder and unless a hearing is requested within such time, the certificate or permit shall be deemed suspended without further notice or hearing until the report, payment, bond or deposit is filed with the department.

(3) Upon a written 10-day notice by the department, a certificate or permit may be suspended or canceled for any of the reasons set forth in subsection (1) of this section. If the certificate or permit is suspended, the filing of the report, payment, bond or deposit will not reinstate the authority until the suspension period has expired, except on order of the department. [Formerly 767.786; 1997 c.275 §38; 2001 c.567 §9]

**Note:** The amendments to 825.139 by section 9, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.139.** (1) A certificate or permit is subject to suspension or cancellation, if the holder thereof:

(a) Is delinquent in reporting or paying any fees, taxes or penalties due the Department of Transportation, whether imposed under this chapter or under ORS chapter 826;

(b) Has refused or failed, within the time provided, to file a deposit or bond requested under ORS 825.506; or

(c) Fails to comply with the applicable requirements for attendance at a motor carrier education program as required by ORS 825.402.

(2) A written 10-day notice of suspension shall be given to the certificate or permit holder and unless a hearing is requested within such time, the certificate or permit shall be deemed suspended without further notice or hearing until the report, payment, bond or deposit is filed with the department or the requirements of ORS 825.402 are met.

(3) Upon a written 10-day notice by the department, a certificate or permit may be suspended or canceled for any of the reasons set forth in subsection (1) of this section. If the certificate or permit is suspended, the filing of the report, payment, bond or deposit, or the fulfilling of the requirements of ORS 825.402 will not reinstate the authority until the suspension period has expired, except on order of the department.

**825.141 Reinstatement fee after suspension of authority.** In addition to any other requirements of this chapter, a carrier whose operating authority has been suspended shall pay a reinstatement fee of \$25 to the Department of Transportation before the operating authority may be reinstated, plus \$5 for each vehicle receipt outstanding under the carrier's authority at the time of suspension, if the suspension has been in effect more than 30 days. However, if the suspension has been in effect for 30 days or less, in addition to the reinstatement fee of \$25 the carrier only need pay \$5 for each receipt it does not surrender upon application for reinstatement of the authority. [Formerly 767.797; 2001 c.567 §3]

**Note:** The amendments to 825.141 by section 3, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.141.** In addition to any other requirements of this chapter, a carrier whose operating authority has been suspended shall pay a reinstatement fee of \$25 to the Department of Transportation before the operating authority may be reinstated, plus \$5 for each vehicle identification device outstanding under the carrier's authority at the time of suspension, if the suspension has been in effect more than 30 days. However, if the suspension has been in effect for 30 days or less, in addition to the reinstatement fee of \$25 the carrier only need pay \$5 for each identification device it does not surrender upon application for reinstatement of the authority.

**825.145** [Formerly 767.120; repealed by 1997 c.275 §44]

(Insurance and Bond)

**825.160 Liability insurance of carriers.** (1) Except as provided in ORS 825.168, no certificate or permit shall be issued to any person to operate as a motor carrier until the person has in effect a policy of public liability and property damage issued by an insurance company or reciprocal insurance exchange authorized to transact business within this state, and in accordance with the policies, forms and manuals on file with the Director of the Department of Consumer and Business Services.

(2) Insurance required under this section shall be provided at minimum limits the Department of Transportation by rule may prescribe, and upon such terms, conditions and provisions as the department may determine to be necessary for the reasonable indemnification of the patrons of the applicant and of the public against damage and injury for which the applicant may be liable by reason of the operation of any motor vehicle. However, the insurance policy required of a carrier or persons engaged solely in interstate commerce need not provide for the protection of their patrons.

(3) In fixing the amount of the insurance policy the Department of Transportation shall give due consideration to the character and amount of traffic, the number of persons involved and the degree of danger which the proposed operation involves. [Formerly 767.195]

**825.162 Collect on delivery service authorized for intrastate carriers; cargo insurance; bond.** (1) For-hire carriers of property intrastate may provide collect on delivery service. Any carrier providing collect on delivery service shall obtain a satisfactory bond in a sum to be fixed by the Department of Transportation, conditioned that such carrier shall make compensation to shippers or consignees for all property shipped collect on delivery, or money collected therefor, belonging to shippers or consignees and coming into the possession of such carrier in connection with its transportation business.

(2) No certificate or permit shall be issued to any person to operate intrastate as a for-hire carrier of freight or express until the person has in effect cargo insurance in such penal sum as the department may deem necessary to protect adequately the interests of the public. This policy shall bind the assurer for loss of, or damage to, property carried in, upon or attached to the motor vehicles or other equipment operated by, for or under the control of the assured, or while in the care or custody of the assured.

(3) The department may waive the requirement of such bond or cargo insurance for any carrier whose service is limited to commodities not subject to material damage or loss through ordinary transportation hazards, or any carrier who does not engage in transporting collect on delivery shipments. [Formerly 767.200]

**825.164 Rules for compliance with ORS 825.160 and 825.162; notice prior to cancellation of insurance or bond; suspension of authority when insurance or bond inoperative.** (1) The Department of Transportation by rule shall establish a system for determining how motor carriers demonstrate compliance with the insurance and bond requirements of ORS 825.160 and 825.162. The system may require certification of compliance by the carrier or the filing of a policy or bond with the department and may require different acts of compliance based on class of carrier or experience. The system shall also specify what acts constitute failure to comply for purposes of revocation or suspension of the carrier's authority.

(2) No insurance policy or collect on delivery bond furnished under ORS 825.160 or 825.162 may be canceled or otherwise terminated at any time prior to its expiration until the indemnity or surety company or reciprocal insurance exchange which executed the same, has filed with the department a notice of cancellation as provided in such bond or policy. Such cancellation shall be effective not less than 30 days from the date of receipt, and no agreement between the parties thereto shall operate to avoid this restriction upon cancellation.

(3) If any insurance policy or collect on delivery bond required under ORS 825.160 or 825.162 becomes inoperative, the authority under the certificate or permit involved shall cease and be suspended insofar as it pertains to any affected vehicles

until an insurance policy or collect on delivery bond meeting the requirements of ORS 825.160 and 825.162 becomes effective and is accepted by the department. [Formerly 767.205]

**825.166 Deposit of securities or letter of credit in lieu of insurance or bond.** (1) In lieu of the insurance policy or surety bond, the holder of any certificate or permit may file with the Department of Transportation an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, or money, bank or savings and loan savings certificates, or bonds, negotiable by delivery, of the State of Oregon, school districts therein, or of any county therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both the principal and interest, equal in amount to the amount of the insurance policy or bond required by the department.

(2) So long as the deposit remains unencumbered the depositor is entitled to collect the interest upon such securities.

(3) The department shall hold the securities or letter of credit upon such terms as the department shall designate and approve pursuant to the provisions of this chapter, and shall deliver such securities or letter of credit to the State Treasurer, who shall receive and hold them subject to the lawful orders of the department. The State Treasurer and the surety or letter of credit issuer of the treasurer shall be liable upon the official bond or letter of credit for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by the treasurer in the mailing, insuring, shipping or delivering of any such securities or letter of credit, or of the interest coupons attached thereto as they mature.

(4) Such substituted security or letter of credit shall be subject to the liabilities imposed by the terms of the policy of insurance or surety bond or letter of credit then currently used by the department.

(5) If the securities or letter of credit provided for in this section are furnished in lieu of an insurance policy or bond, they shall not be subject to withdrawal or assignment by the holder of the certificate or permit, either voluntarily or by operation of law, until the expiration of one year after the holder of the certificate or permit, in connection with which they are furnished has:

(a) Substituted therefor a policy of insurance or surety bond as provided in ORS 825.160 and 825.162;

(b) The certificate or permit canceled; or

(c) Surrendered such certificate or permit to the department for cancellation and has ceased operation thereunder.

(6) If any such securities become impaired in value, the department shall require additional protection by insurance, bond, letter of credit or substitute security to the extent that the value of the securities may have become impaired. [Formerly 767.210; 1997 c.631 §559]

**825.168 Self-insurance in lieu of insurance or bond.** (1) Any for-hire carrier, engaged in interstate or interstate and intrastate operations within the State of Oregon, which is or becomes qualified as a self-insurer with the Interstate Commerce Commission of the United States in accordance with laws of the United States applicable to self-insurance by motor carriers, is exempt, so long as such qualification remains effective, from the provisions of ORS 825.160 to 825.166.

(2) The Department of Transportation may require proof of the existence and continuation of such exempt status to be made by affidavit of the carrier in such form and at such times as the department may prescribe. [Formerly 767.215]

(Fees)

**825.180 Application fee; transfer fee; refunds.** (1) In addition to the other fees prescribed in this chapter:

(a) A person applying for a certificate under ORS 825.110 shall pay an application fee of \$300.

(b) A person applying for a permit under ORS 825.127 shall pay a fee of \$50.

(c) A person applying for a permit under ORS 825.102 shall pay an application fee of \$300.

(d) A person applying for a change in a permit shall pay a fee of \$50.

(e) A person applying for transfer of a certificate shall pay a fee of \$300.

(f) A person making an application under any provision of this chapter not specified in this subsection shall pay a fee of \$150 if the matter is set for a hearing.

(2) The Department of Transportation may refund the fees collected under this section if the applicant parties or their duly authorized representatives make written request therefor, if:

(a) Request for withdrawal of the application was received by the department no later than five days before the hearing date or if no hearing is required, such request must have been received prior to issuance of authority; and

(b) The department finds that:

(A) Applicant is not eligible to file application;

(B) Certificate authority is not needed for the service intended;

(C) Applicant's death or serious illness precludes conducting the operations for which application was made; or

(D) Transferor withdraws consent for transfer of certificate.

(3) When the department fixes a time and place for a hearing as required by ORS 825.110 (1), if any person who protested fails to appear at the hearing and failed to withdraw the protest at least five days before the date of the hearing, the department may require such person to pay a sum equal to the application fee required by this section. [Formerly 767.305; 1997 c.275 §39]

(Regulatory Authority Generally)

**825.200 Rules and orders regarding uniform cargo liability and joint line rates.** (1) With respect to intrastate transportation by motor carriers, the Department of Transportation may adopt and enforce rules, and issue and enforce orders, related to:

- (a) Uniform cargo liability, uniform bills of lading or receipts and uniform cargo credit; and
- (b) Joint line rates, and routes, classifications and mileage guides for the purpose of providing antitrust immunity.

(2) Rules and orders adopted and issued under subsection (1) of this section are mandatory only in respect to transportation described in ORS 825.202. [1995 c.306 §3]

**825.202 Department's authority over for-hire carriers of persons and of household goods.** The Department of Transportation shall supervise and regulate the transportation of persons and of household goods by for-hire carriers and with respect thereto shall:

(1) After hearing, regulate and prescribe just, fair and reasonable rates, classifications and practices.

(2) Prescribe the kind and form of accounts, manifests, receipts and records to be used and kept pertaining to operation, and the method and manner of keeping them and require their preservation for such time as the department may determine proper, and have access thereto with right of audit and inspection at all reasonable times.

(3) Require the filing of such periodical or other reports or data of such carriers as the department deems necessary.

(4) Require reasonably adequate service and facilities.

(5) Regulate operating schedules of for-hire regular route full-service scheduled carriers of persons so as to meet the needs of any community served and so as to prevent unnecessary duplication of for-hire carrier services. [Formerly 767.405]

**825.204 Regulation of shipping receipts, changes of vehicles and routes, records and mileage for carriers of household goods; rules.** The Department of Transportation may:

(1) Require every person operating as a for-hire carrier of household goods to issue a receipt in triplicate for freight received for shipment, which shall contain the name of the truck operator, date and place received, name of consignor, name of consignee, destination, description of shipment, weight, rate and charges, and signature of the carrier or agent; one of said receipts to be delivered to the consignor, one to consignee and one to be retained by carrier in its files.

(2) Prescribe rules governing amendments of certificates or permits covering additions to and withdrawals of vehicles and the extension or contraction of routes, and the filing of applications therefor.

(3) Prescribe forms of accounts and records to be kept, reports to be made and blanks to be used by for-hire carriers in transportation operations, and matters incidental thereto. [Formerly 767.460]

**825.206 Duties of interstate carriers.** A person engaged exclusively in the conduct of interstate transportation shall:

(1) Observe and comply with the laws of this state regulating traffic on its highways, or the operation of motor vehicles thereon, or limiting the size, weight or speed of motor vehicles; and

(2) Observe and comply with the laws of this state and with the orders, rules and regulations of the Department of Transportation, county courts, boards of county commissioners and municipal authorities to protect the highways from substantial damage and to promote safety to other users thereof, to adjacent property and facilities and to the public. [Formerly 767.430; 1997 c.249 §263]

**825.208** [Formerly 767.440; repealed by 1997 c.275 §44]

**825.210 Regulation of motor vehicles.** The Department of Transportation may:

(1) Require the weighing of motor vehicles loaded and empty at reasonably frequent intervals;

(2) Inspect and require proper equipment and markings of motor vehicles and insure the making of necessary repairs, to promote efficient and safe operation; and

(3) Prescribe the character of appliances to be used on motor vehicles to establish correct mileage traveled by such vehicles and require the installation and proper repair and inspection of such appliances. [Formerly 767.450]

**825.212 Regulation of mileage records; distinguishing marks.** The Department of Transportation may:

(1) Prescribe such methods and means as the department determines to be necessary for checking, verifying and ascertaining the number of miles traveled by each motor vehicle operated by for-hire carrier and private carrier and insure that the mileage charged for is computed on basis of extreme mileage traveled.

(2) Prescribe distinguishing marks, such as signs, colors, lights, tags and plates as may be convenient or necessary for distinguishing classes of carriers or for protective or regulatory purposes; but not inconsistent with the Oregon Vehicle Code. [Formerly 767.895]

(Rate Regulation)

**825.220 Temporary rate procedures.** Notwithstanding ORS 825.202 (1), after petition by any interested person, or upon the department's own motion, the Department of Transportation may permit the establishment or modification of rates, classifications and practices to become temporarily effective without a hearing if the department finds that such action is in the

public interest. The department shall hold the hearing required by ORS 825.202 (1) as soon thereafter as is practicable. Any such rates, classifications and practices determined after hearing shall be effective as though originally determined pursuant to ORS 825.202. [Formerly 767.407]

**825.222 Publication of notice of proposed rate establishment or modification.** When directed by the Department of Transportation, any carrier of persons or household goods, or agent on behalf of the carrier, which proposes the establishment or modification of a rate, classification or practice shall publish notice thereof in a newspaper of general circulation in the area in which the proposal shall be effective. Publication shall be within the time provided by the department. [Formerly 767.409]

**825.224 Rate regulation of carriers of passengers and of household goods.** (1) The rates, rules and practices used by for-hire carriers in the transportation of persons and of household goods shall be prescribed by the Department of Transportation and:

(a) Be plainly stated in tariffs or schedules available to the public at each carrier's office, and at the office of the department; and

(b) Be just, reasonable and fair and shall not be unduly discriminatory, prejudicial or preferential.

(2) No for-hire carrier of persons or household goods shall:

(a) Charge, collect or receive a different remuneration for the transportation of persons or household goods or for any service in connection therewith, than the rates which have been legally prescribed and filed with the department.

(b) Refund or remit in any manner or by any device any portion of the rates required to be collected by its tariffs or written contracts on file with the department.

(3) Any action against for-hire carriers of persons or household goods for recovery of overcharges or by the carriers for the collection of undercharges shall be commenced within two years from the time the cause of action accrued. As used in this subsection, overcharges or undercharges shall mean charges assessed for transportation service different from those applicable under the tariff lawfully in effect.

(4) The department shall check the records of for-hire carriers of persons and of for-hire carriers of household goods for the purpose of discovering all discriminations and rebates. The department:

(a) Upon the department's own motion, may, and upon the complaint of any aggrieved person, shall, pursuant to written notice served upon any carrier subject to this subsection, investigate the rates, classifications, rules and practices of the carrier and investigate service in connection therewith; and

(b) To the extent that the rates, classifications, rules or practices are found by the department to be unreasonable, unlawful, unfair or unduly discriminatory, preferential or prejudicial, shall, by orders based upon the evidence, require the carrier to comply with just, fair, lawful and reasonable rates, classifications, rules and practices established by the department. Such carrier shall forthwith comply with such orders.

(5) The department may suspend a tariff or time schedule of carriers of persons or household goods that the department believes will impair the ability of the carriers to serve the public or appears to be unjust, unfair, unreasonable, prejudicial, discriminatory or otherwise unlawful. [Formerly 767.410]

**825.226 Rating bureaus; rules.** (1) The Department of Transportation shall adopt rules providing for guidelines and requirements for the formation of bureaus that carriers regulated under this chapter may join to develop and maintain reasonable rates for transportation services. The rules shall include procedures to assure that rates established through the rate bureaus are without unjust discriminations, undue preferences or advantages or practices that are unfair or that the department determines will adversely affect competition.

(2) The department may establish any rule for the regulation of rate bureaus under this section that the department determines to be in the public interest.

(3) Carriers regulated under this chapter may become members of rate bureaus that meet the requirements established by the department under this section and may use the services of the rate bureaus in the development of rates and rating practices, classifications, divisions and rules that relate to rates in a manner allowed by the department. [Formerly 767.505]

(Classifications)

**825.230 Carrier to operate only in class for which authority issued; effect of violation.** (1) The Department of Transportation shall, in issuing certificates or permits, classify the applicants as to their proper class under the law and no carrier shall operate in a different class without certificate or permit from the department.

(2) An authorized for-hire carrier may act as a private carrier without separate or additional authority.

(3) If, after notice and hearing, the department finds that any carrier is operating in a class other than that for which the certificate or permit is issued, the department shall revoke or suspend the certificate or permit, or order the carrier to cease and desist the illegal or irregular practices found. [Formerly 767.180; 1997 c.249 §264; 2001 c.567 §4]

**Note:** The amendments to 825.230 by section 4, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.230.** (1) The Department of Transportation shall, in issuing certificates or permits, classify the applicants as to their

proper class under the law and no carrier shall operate in a different class without certificate or permit from the department.

(2) An authorized for-hire carrier may act as a private carrier without separate or additional authority.

(3) For-hire carriers may interchange equipment upon which an identification plate or marker has been issued by the department and such identification plate or marker may remain on the equipment and no transfer of registration with the department shall be required, provided that such interchange shall be permitted only in accordance with rules adopted by the department pertaining to insurance coverage, accounts, records, reports, operations and practices thereof.

(4) If, after notice and hearing, the department finds that any carrier is operating in a class other than that for which the certificate or permit is issued, the department shall revoke or suspend the certificate or permit, or order the carrier to cease and desist the illegal or irregular practices found.

**825.232 General authority to prescribe and enforce rules and classifications.** (1) The Department of Transportation shall, by general order or otherwise, prescribe and enforce rules in conformity with this chapter to better accomplish the enforcement of its provisions, which shall cover and include for-hire carriers and private carriers and their operations.

(2) The department may make such subdivisions of the carriers, as classified in this chapter, as in the opinion of the department may work to the efficient administration of this chapter and shall do all things necessary to carry out and enforce its provisions.

(3) All rules made by the department pursuant to this chapter and filed in the office of the department have the force and effect of law.

(4) This section does not restrict the powers of the county courts or boards of county commissioners under existing laws and amendments thereof.

(5) Without restricting the general powers conferred upon the department to prescribe and enforce rules, the department is vested with special authority with respect to the matters listed in ORS 825.204, 825.210 and 825.212. [Formerly 767.445; 1997 c.249 §265]

**825.234 Classes of carriers of persons and of household goods; filing of schedule and tariff.** (1) As used in this section:

(a) "Regular route scheduled transportation" means the transportation of persons between designated points over designated routes under time schedules that provide a regularity of service.

(b) "Full-service" means service that is offered during any part of more than 10 consecutive months in any 12-month period.

(2) For-hire carriers of persons or of household goods shall be classified, and the classification shall be shown on the carrier's certificate when issued or reissued by the Department of Transportation, as follows:

(a) Regular route full-service scheduled transportation of persons.

(b) Irregular route transportation of household goods.

(c) Local cartage of household goods.

(3) Carriers providing regular route full-service scheduled transportation of persons shall file a schedule setting forth the termini between which service is rendered, the hours of departure and arrival, and tariffs and classifications governing rates.

(4) Irregular route carriers of household goods shall file tariffs and classifications governing rates.

(5) Cartage carriers of household goods shall file tariffs and classifications governing rates. The department shall, after hearing, determine what territorial limits will be included within the commercial area adjacent to the limits of any incorporated city. [Formerly 767.415]

**825.236** [Formerly 767.416; repealed by 1997 c.275 §44]

(Local Cartage of Household Goods)

**825.240 Inapplicability of certain regulatory statutes to local cartage activities; application for authority.** (1) The provisions of ORS 825.202, 825.220, 825.224 and 825.234, except for ORS 825.202 (2), (3) and (4), do not apply to for-hire carriers of household goods who are engaged in local cartage of property within areas designated in rules adopted by the Department of Transportation. The department shall designate a local cartage area as exempt from economic regulation if the department finds from the record and evidence in a rulemaking proceeding that:

(a) The gross revenue derived from local cartage of household goods in the designated cartage area by carriers does not exceed \$100,000 a year;

(b) The population of the affected city or cartage area is less than 10,000;

(c) The incorporated city or designated cartage area is not an essential part of a metropolitan, industrial or homogeneous economic area;

(d) The incorporated city or cartage area is not contiguous to another city or within the area encompassed by the commercial zone of another city;

(e) Service to the public would not be adversely affected;

(f) The carrier's ability to render service would not be adversely affected; and

(g) It is not otherwise adverse to the public interest to exclude such area from regulation.

(2) If the department finds in a future rulemaking proceeding that adequate service is not being provided or that the public

interest demands that the exemption be removed, the department shall remove the exemption and require the affected cartage carriers to comply with the provisions of this chapter.

(3) Within 90 days after the effective date of the order removing the exemption, carriers who operated within the local cartage area for at least six consecutive months immediately preceding the effective date of the order may file with the department an application for operating authority. The application shall be accompanied by evidence of qualified operations in the local cartage area. If the department finds that the applicant has engaged in qualified operations in the area, the department shall issue an appropriate certificate authorizing the carrier to provide service within the area. Applicants may continue to provide service pending the department's decision on the application. [Formerly 767.417]

(Safety Regulation)

**825.250 Stop for inspection.** (1) An authorized representative of the Department of Transportation may require a person driving a vehicle or combination of vehicles subject to regulation by the department on a street or highway to stop and submit to an inspection of the driver, the cargo or the vehicle or combination of vehicles at any location where representatives of the department are conducting tests and inspections when signs are displayed requiring such stop.

(2) As used in this section, "authorized representative" means a city, county or state employee who has been trained and certified by the department as a commercial vehicle inspector and who is employed either by the department or by an agency that has an agreement with the department to provide inspections of commercial vehicles, drivers, general cargo or hazardous materials. [Formerly 767.452]

**825.252 Safety regulations relating to drivers or operators; uniformity with federal regulations; rules.** (1) The Department of Transportation shall, after public notice and hearing, adopt rules that require for-hire and private carriers to:

(a) Protect and safeguard the health and safety of all employees, passengers and the public by prescribing the limit of hours that drivers or operators of motor vehicles may remain on duty at any time and the required number of hours released from duty.

(b) Establish minimum qualifications for persons who drive motor vehicles, as, for, or on behalf of the carrier.

(c) Meet and maintain minimum requirements established by the department for safety of operations and equipment of motor vehicles subject to their operations and control.

(2) Venue for prosecution for the violation of rules adopted under this section lies:

(a) In the county in which the defendant resides if the defendant is a resident of this state.

(b) In the county where the violation was committed if the defendant is not a resident of this state.

(3) The department may revoke the certificate or permit of any person for repeated violation of the laws or rules governing hours of service.

(4) The rules promulgated under subsection (1) of this section should provide for uniformity between state and federal motor carrier safety and hours of service rules insofar as practicable. [Formerly 767.455]

**825.254 Limitation on movement of vehicles to particular days of week; rules.** Except as provided in this section, the Department of Transportation shall not adopt rules limiting the movement of vehicles that are subject to regulation under this chapter to any particular days of the week. The department may adopt rules described under this section if:

(1) The rules are recommended by the Superintendent of State Police; and

(2) The department determines that the rules are required to protect the interest and safety of the general public. [Formerly 767.456]

**825.256 Rules for transportation of infectious waste.** The Department of Transportation may establish rules governing the conditions for transportation of infectious waste that is not an incidental part of other solid waste. The rules may require persons transporting infectious waste for consideration to register separately with the Department of Transportation as an infectious waste transporter and may specify the terms of that registration, including a fee for such registration. The Department of Transportation may require that persons transporting infectious waste for consideration document the county and state of origin of the waste. As used in this section, "infectious waste" has the meaning given in ORS 459.386. [Formerly 767.034]

**825.258 Rules for transportation of hazardous waste, hazardous material and PCB; civil penalty.** (1) The Department of Transportation shall adopt rules that conform to any applicable federal rules setting standards for the safe transportation of hazardous waste, hazardous material and PCB. The rules shall be applicable to any person who transports, or causes to be transported, any hazardous material.

(2) The authority granted under this section:

(a) Is in addition to any other authority granted the department.

(b) Does not supersede the authority of the Energy Facility Siting Council to regulate the transportation of radioactive materials under ORS 469.550, 469.563, 469.603 to 469.619 and 469.992.

(3) In addition to any other penalty for violation of a rule adopted under this section, the department, after hearing, may impose a civil penalty of not more than \$10,000 for violation of a rule adopted under this section. Each day of noncompliance with a rule is a separate violation. [Formerly 767.457]

**825.260 Impoundment of vehicles unlawfully transporting hazardous wastes or substances.** (1) In addition to any other enforcement measure allowed, if a person violates the provisions of ORS 466.080 or 825.258 or rules adopted by the Department of Transportation under ORS 466.080 or 825.258, the department may impound the person's vehicle transporting, about to transport or that has transported hazardous waste, PCB or hazardous substance within the state. The department may charge a reasonable fee for the costs of impoundment and storage, if any, before releasing any vehicle to its owner.

(2) As used in this section and ORS 825.258:

(a) "Hazardous substance" includes any substance defined by the department as hazardous.

(b) "Hazardous waste" has the meaning given that term in ORS 466.005.

(c) "PCB" has the meaning given that term in ORS 466.505 when the PCB is a waste product of an industrial, commercial or other activity. [Formerly 767.458]

(Enforcement)

**825.300 Utilization of state police in enforcing chapter.** The Department of Transportation shall call upon the state police for all police service or police assistance necessary for the proper and efficient policing of carriers operating under this chapter. The department and the state police shall cooperate in the enforcement of this chapter to the end that there may be no duplication of service or expense. [Formerly 767.475]

**825.302 Service of process on nonresident carrier by serving the department.** (1) The Department of Transportation is the true and lawful attorney upon whom all process, summons or notices in any action, suit or proceeding against each motor carrier residing or having its principal place of business outside this state may be served, when such action, suit or proceeding is caused by or relates to the operation of motor vehicles of or by such carrier within the state.

(2) The service of process, summons or notice upon such carrier may be made by leaving a copy thereof, together with a copy of the complaint or order, in the office of the department. The department shall forthwith notify such carrier of such service by letter directed to it at its residence or place of business as shown by the records of the department. [Formerly 767.495]

**825.304 Vehicle owner to be made party to certificate or permit enforcement proceedings; dismissal of charges against driver.** (1) In any prosecution for any violation of ORS 825.100 or 825.104 of any driver who is employed by the owner or lessee of the vehicle involved in the violation to operate the vehicle, the court shall make the owner or lessee of the vehicle a codefendant if appearance has not been made by the driver within 15 days of the date the driver was cited to appear in court.

(2) If it is found that the owner or lessee caused or permitted the driver to operate the vehicle in violation of ORS 825.100 or 825.104, and if the owner or lessee is found guilty of violating any of those provisions, the court may dismiss the charges against the driver. [Formerly 767.500]

(Reports, Records and Funds)

**825.320 Carrier's annual report to department.** On or before April 1 of each year, unless additional time is granted, every certificated motor carrier shall file with the Department of Transportation a report, verified under oath by its chief officer, agent or owner, in such form and containing such information as the department shall prescribe, covering the year ending December 31 next preceding. [Formerly 767.605]

**825.322 Disclosure of hazardous waste transportation reports and information to Environmental Protection Agency.** Records, reports and information obtained or used by the Department of Transportation in administering the hazardous waste program under ORS 825.258 shall be available to the United States Environmental Protection Agency upon request. If the records, reports or information has been submitted to the department under a claim of confidentiality, the state shall make that claim of confidentiality to the Environmental Protection Agency for the requested records, reports or information. The federal agency shall treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law. [Formerly 767.644]

**825.324** [Formerly 767.625; repealed by 1997 c.275 §44]

**825.326 Motor Carrier Account.** (1) All fees, taxes, charges and other sums collected by the Department of Transportation under this chapter shall be paid into the State Treasury and shall be by the State Treasurer placed to the credit of an account, separate and distinct from the General Fund, to be known as the Motor Carrier Account. Interest earned by the account shall be credited to the account.

(2) The department may purchase the necessary supplies and equipment and provide for all necessary and incidental expenses incurred by the department in administering and enforcing this chapter.

(3) All claims, duly approved by the department, which have been incurred in pursuance of law, shall be paid by warrants

drawn in the manner provided by law, payable out of the Motor Carrier Account. [Formerly 767.630]

**825.328 Monthly transfer of Motor Carrier Account surplus to State Highway Fund.** On the last day of each month the Department of Transportation shall identify the balance of all money in excess of sufficient working capital to accommodate the department's operating needs remaining in the Motor Carrier Account as of the close of business on the 25th day of such month, after deducting sums disbursed by warrants drawn under ORS 825.326. The department shall thereupon transfer the balance to the State Highway Fund. [Formerly 767.635]

**825.330 Restrictions on use of funds.** No part of the funds produced by this chapter shall be used by the Department of Transportation directly or indirectly:

- (1) For the purpose of investigating the rules, charges, practice or service of any carrier by rail.
- (2) In the administration or enforcement of any law or authority over any carrier by rail.
- (3) To investigate motor carriers beyond the appropriation made in this chapter. [Formerly 767.640; 1997 c.249 §266]

(Miscellaneous)

**825.350 Voluntary ridesharing arrangement not to be taxed or licensed by local government.** (1) No county, city or other municipal corporation may impose a tax on, or require a license for, a voluntary ridesharing arrangement using a motor vehicle with a seating capacity for not more than 15 persons.

(2) For the purposes of this section "voluntary ridesharing arrangement" has the meaning given that term in ORS 656.025. [Formerly 767.660]

**825.352 Advertising requirements for carriers of household goods.** A carrier that transports household goods shall include the carrier's certificate number in all newsprint classified advertising, newsprint display advertising and telephone directory advertising prepared by or at the direction or request of the carrier. [Formerly 767.665]

**825.354 Appointment of agents to issue passes, collect fees and taxes.** The Department of Transportation may appoint agents to issue temporary passes provided in ORS 825.470 and to collect any fees and taxes required by this chapter. The department shall prescribe the duties and compensation of such agents and may require them to give bonds or irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008, in such amount as the department determines appropriate, conditioned upon the faithful performance of their duties. [Formerly 767.062; 1997 c.631 §560; 2001 c.567 §5]

**Note:** The amendments to 825.354 by section 5, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.354.** The Department of Transportation may appoint agents to issue temporary passes provided in ORS 825.470 (2) and to collect any fees and taxes required by this chapter. The department shall prescribe the duties and compensation of such agents and may require them to give bonds or irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008, in such amount as the department determines appropriate, conditioned upon the faithful performance of their duties.

**825.356 Courts to forward copies of record on conviction for violation of chapter.** The courts having jurisdiction of this chapter shall, upon a conviction of anyone for violation of this chapter, immediately forward a copy of the record of such conviction to the office of the Department of Transportation. [Formerly 767.065]

## MOTOR CARRIER EDUCATION PROGRAM

**825.400 Rules for establishment of motor carrier education program; contents of program.** The Department of Transportation shall adopt rules to establish a program for the education of motor carriers that covers, at a minimum, safety, weight mile tax and insurance and size and weight regulations administered by the department. [Formerly 767.751; 1997 c.249 §267]

**825.402 Participation in program.** (1) Except as provided in subsection (4) of this section, all motor carriers that are domiciled in Oregon and that receive a certificate or permit from the Department of Transportation for the first time on or after July 1, 1990, shall participate in the program established under ORS 825.400.

(2) A motor carrier required by subsection (1) of this section to participate in the program must do so within 90 days of the date on which it receives a certificate or permit from the department.

(3) In addition to motor carriers required to participate in the program established under ORS 825.400, the department may require participation by any motor carrier that:

- (a) Has underpaid its tax obligation for the use of the highways by 15 percent or more;
- (b) Exceeds by more than 15 percent, in a one-year period, the industry average for out-of-service violations for vehicle inspection or for accidents per mile; or
- (c) Receives, in a one-year period, two or more citations for being 10,000 pounds or more overweight.

(4) Subsection (1) of this section does not apply to a carrier receiving a certificate or permit for the first time on or after July 1, 1990, if the carrier is a successor in interest to a carrier that held a certificate or permit prior to that date.

(5) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to have at least one person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the certificate or permit issued to the motor carrier participate in the program. No rule shall require the participation of a motor carrier more than one time except for motor carriers required to participate under subsection (3) of this section. [Formerly 767.752; 2001 c.567 §10]

**Note:** The amendments to 825.402 by section 10, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.402.** (1) Except as provided in subsection (4) of this section, all motor carriers that are domiciled in Oregon and that receive a certificate or permit from the Department of Transportation for the first time on or after July 1, 1990, shall participate in the program established under ORS 825.400.

(2) A motor carrier required by subsection (1) of this section to participate in the program must do so within 180 days of the date on which it receives a certificate or permit from the department.

(3) In addition to motor carriers required to participate in the program established under ORS 825.400, the department may require participation by any motor carrier that:

(a) Has underpaid its tax obligation for the use of the highways by 15 percent or more;

(b) Exceeds by more than 15 percent, in a one-year period, the industry average for out-of-service violations for vehicle inspection or for accidents per mile; or

(c) Receives, in a one-year period, two or more citations for being 10,000 pounds or more overweight.

(4) Subsection (1) of this section does not apply to a carrier receiving a certificate or permit for the first time on or after July 1, 1990, if the carrier is a successor in interest to a carrier that held a certificate or permit prior to that date.

(5) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to have in attendance at least one person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the certificate or permit issued to the motor carrier. No rule shall require the participation of a motor carrier more than one time except for motor carriers required to participate under subsection (3) of this section.

**825.404 Fee for program.** The Department of Transportation shall assess a fee to defray the cost of the program, but the fee shall not exceed \$60. [Formerly 767.753]

## DRUG AND ALCOHOL TESTING PROGRAM

**825.410 Drug and alcohol testing program; report of positive test.** (1) Every motor carrier must:

(a) Have an in-house drug and alcohol testing program that meets the federal requirements of 49 C.F.R. part 382; or

(b) Be a member of a consortium, as defined in 49 C.F.R. 382.107, that provides testing that meets the federal requirements.

(2) At the time of registration or renewal of registration of a commercial vehicle or a commercial motor vehicle under any provision of ORS chapter 803 or 826, a motor carrier must certify to the Department of Transportation that the carrier is in compliance with subsection (1) of this section and, if the carrier belongs to a consortium, must provide the department with the names of persons who operate the consortium.

(3) When a medical review officer of a motor carrier's testing program or of the consortium the carrier belongs to determines that a positive test result is valid, the officer must report the finding to the department. [1999 c.1099 §2]

**825.412 Hearing regarding test results; rules; entry on employment driving record.** (1) When the Department of Transportation receives a report under ORS 825.410, the department shall notify the person who is the subject of the report that the person has a right to a hearing to determine whether the test results reported under ORS 825.410 will be placed on the person's employment driving record.

(2) The notice shall inform the person of the procedure for requesting a hearing, including but not limited to the time in which a hearing must be requested and the manner of making the request.

(3) A hearing under this section shall be limited to the following issues:

(a) Whether the person named in the report is the person who took the test.

(b) Whether the motor carrier or consortium has a program that meets the requirements of ORS 825.410.

(c) Whether the medical review officer making the report correctly followed the procedures for testing established by the motor carrier or consortium.

(4) If the hearing officer determines that the person is the person named in the report, that the motor carrier or consortium has a program meeting the requirements of ORS 825.410 and that the medical review officer followed established procedures, the hearing officer shall order the positive test result to be entered into the employment driving record of the person.

(5) The department shall adopt rules specifying requirements for requesting a hearing under this section.

(6) If a hearing is not requested within the time limit established by rule, or if the person does not appear at a hearing, the department shall place the information about the positive test result on the employment driving record of the person.

(7) The department may not be held civilly liable for any damage resulting from placing information about a drug test result

on the employment driving record as required by this section or for any damage resulting from release of the information by the department that occurs in the normal course of business. [1999 c.1099 §7]

**Note:** 825.412 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to or made a part of ORS chapter 825 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

## WEIGHT-MILE TAX

(Receipts and Identification Devices)

**825.450 Weight receipt; fee; period of validity.** (1) Except as otherwise permitted under ORS 825.470, the Department of Transportation shall issue a receipt stating the combined weight of each self-propelled or motor-driven vehicle and any train or combination of vehicles to be used therewith.

(2) The receipt shall be carried with the motor vehicle at all times, and no person shall load any motor vehicle in excess of its combined weight permit rating thus determined except as variations may necessarily result in passenger loading. A fee of \$5 shall be paid to the department for each weight receipt issued.

(3) Receipts issued under this section shall be valid from the first day of any calendar quarter to the last day of the fourth consecutive calendar quarter. Each carrier may select the calendar quarter in which the period will begin except that, if necessary for administrative convenience, the department may require a carrier to adopt a starting date chosen by the department.

(4) All vehicles operating under the carrier's authority shall have the same four-quarter period of receipt validity. The department may allow a carrier to operate with expired receipts for up to one extra quarter if the renewal application has been submitted and the required fees have been paid on or before the last day of the period of validity of the receipt. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department. [Formerly 767.775; 2001 c.567 §1]

**Note:** The amendments to 825.450 by section 1, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.450.** (1) Except as otherwise permitted under ORS 825.454 and 825.470, the Department of Transportation shall, with respect to each self-propelled or motor-driven vehicle that is not issued an identification device under ORS chapter 826, issue an identification plate or marker. The department shall also issue a receipt stating therein the combined weight of each self-propelled or motor-driven vehicle and any train or combination of vehicles to be used therewith.

(2) The receipt shall be carried with the motor vehicle at all times, and no person shall load any motor vehicle in excess of its combined weight permit rating thus determined except as variations may necessarily result in passenger loading. A fee of \$5 shall be paid to the department for each replacement weight receipt issued.

(3) The identification plate or marker must be fastened or placed on the motor vehicle to which it is issued in a manner prescribed by the department by rule.

(4) Identification plates or markers issued under this section shall be valid from the first day of any calendar quarter to the last day of the fourth consecutive calendar quarter. Each carrier may select the calendar quarter in which the period will begin except that, if necessary for administrative convenience, the department may require a carrier to adopt a starting date chosen by the department.

(5) All vehicles operating under the carrier's authority shall have the same four-quarter period of plate or marker validity. The department may allow a carrier to operate with expired plates or markers for up to one extra quarter if the renewal application has been submitted and the required fees have been paid on or before the last day of the period of validity of the plates or markers. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.

**825.452 Initial registration period.** In order to facilitate the registration issuance and registration renewal processes, when a carrier initially registers under ORS 826.009 or 826.037, the Department of Transportation may assign a registration period ranging from three to 12 months. Initial fees shall be adjusted accordingly. [1995 c.39 §6; 2001 c.567 §6]

**Note:** The amendments to 825.452 by section 6, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.452.** In order to facilitate the plate and registration issuance and registration renewal processes, when a carrier is initially issued plates or markers under ORS 825.450 or initially registers under ORS 826.009 or 826.037, the Department of Transportation may assign a plate validity period or registration period ranging from three to 12 months. Initial fees shall be adjusted accordingly.

**825.454 Identification devices; applications; fees.** (1) The Department of Transportation, in the discretion of the department, may require the use of identification devices, such as cab cards, stamps or carrier identification numbers, to identify and be carried with or placed upon each motor vehicle authorized to be operated in Oregon subject to the provisions of

this chapter. The form of any identification device and the method for its use shall be determined by the department.

(2) Notwithstanding any other provision in this chapter, the department may require applications for identification devices to be made annually and may require each carrier holding or obtaining a permit under this chapter to pay to the department a fee of not to exceed \$5 for each device issued on an annual basis. [Formerly 767.780; 2001 c.567 §7]

**Note:** The amendments to 825.454 by section 7, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.454.** (1) Notwithstanding ORS 825.450, the Department of Transportation, in the discretion of the department, may require the use of identification devices, such as cab cards, stamps or carrier identification numbers, in lieu of, as a substitute for or in addition to, plates or markers, to identify and be carried with or placed upon each motor vehicle authorized to be operated in Oregon subject to the provisions of this chapter. The form of any identification device and the method for its use shall be determined by the department.

(2) Except as may be inconsistent with this section, all provisions of this chapter relating to identification plates or markers shall be applicable to the identification devices authorized by this section.

(3) Notwithstanding any other provision in this chapter, the department may require applications for identification devices to be made annually and may require each carrier holding or obtaining a permit under this chapter to pay to the department a fee of not to exceed \$5 for each device issued on an annual basis.

(Taxes and Fees)

**825.470 Temporary pass; fees.** For single trip or short-time operation not exceeding 10 days of a vehicle subject to the provisions of this chapter, the Department of Transportation may issue a temporary pass identifying the motor vehicle. The pass must be carried in the motor vehicle for which it is issued. For this pass a fee of \$9 for each motor vehicle shall be paid. [Formerly 767.805; 2001 c.567 §8]

**Note:** The amendments to 825.470 by section 8, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.470.** (1)(a) In addition to other fees prescribed in this chapter, each carrier holding or obtaining a certificate or permit under this chapter shall pay to the Department of Transportation a fee of \$7.50 for each identification plate or marker issued to identify and be attached to each self-propelled or motor-driven vehicle operated or to be operated in connection with such certificate or permit. This fee shall be known as a plate fee to be paid in advance of the issuance of the identification plate or marker. The same fee shall be paid for renewal of a plate issued under this subsection. A person paying the fee imposed by this subsection shall be issued a card and sticker, if required, in addition to a plate.

(b) Each carrier requiring a replacement plate or sticker shall pay a fee of \$7.50.

(2) In cases of emergency when, because of single trip or short-time operation not exceeding 10 days, it is impractical to assign and have an identification plate or marker attached to a motor vehicle, the department may issue a temporary pass identifying the motor vehicle. The pass must be carried in the motor vehicle for which it is issued. For this pass a fee of \$9 for each motor vehicle shall be paid.

(3) Except as otherwise provided by rule, whenever a motor vehicle is no longer authorized for use under a certificate or permit, or when the certificate or permit under which the vehicle is authorized for use has been suspended or canceled, the identification plate or marker issued for the motor vehicle shall not be displayed. In such cases, the identification plate or marker may be summarily recalled by the department and no refund of fees shall be allowed for the unexpired term of the plate or marker.

(4) In addition to other fees prescribed in this chapter, a carrier whose operating authority has been suspended or canceled shall pay to the department a fee of \$15 for each identification plate or marker which the carrier fails to surrender to the department within 90 days of the date of suspension or cancellation of the carrier's operating authority.

**825.472 Determination of filing of reports or payments.** (1) Any report or payment transmitted through the United States mail that is required to be filed with the Department of Transportation by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 shall be considered filed:

(a) On the date shown by the post-office cancellation mark on the envelope or wrapper containing such report or payment.

(b) On the date such report or payment was mailed if the post-office cancellation mark on the envelope or wrapper containing the report or payment is omitted or is not legible or if the report or payment is not received by the department and if the sender establishes to the satisfaction of the department that the report or payment was deposited in the United States mail on or before the date due for filing.

(2) If the date for filing any report or payment required to be filed with the department by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 falls on a Saturday, Sunday or legal holiday, a filing shall be considered timely if made on the next business day.

(3) Notwithstanding the provisions of subsection (1)(a) of this section, a report or payment that is required to be filed with the department by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 and that is filed by a person whose certificate or permit is suspended under ORS 825.139 (1)(a) for delinquent reporting or paying shall be

considered filed on the date it is received by the department. [Formerly 767.810; 1997 c.275 §41]

**825.474 Motor carrier tax for use of highways.** (1) In addition to other fees and taxes imposed by law upon carriers, there shall be assessed against and collected from every carrier a tax for the use of the highways, to apply to the cost of administration of this chapter and for the maintenance, operation, construction and reconstruction of public highways.

(2) The tax rate which shall apply to each motor vehicle shall be based upon the declared combined weight of the motor vehicle and in accordance with the weight group tax rates as shown in the tables set forth in ORS 825.476.

(3) For the purpose of computing the tax due:

(a) Table "A" applies to motor vehicles subject to the tax imposed by this section that are not issued an annual variance permit under ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000 pounds.

(b) Table "B" applies to motor vehicles subject to the tax imposed by this section that are issued or required to obtain an annual variance permit under ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000 pounds.

(c) The declared combined weight shall be the combined weight, as defined in ORS 825.005, declared in the application for authority under ORS 825.100, subject to audit and approval by the Department of Transportation.

(d) In addition to any tax due under this chapter, motor vehicles that exceed the maximum vehicle weight limits for annual variance permits under ORS 818.200 (1)(a) to (c) are subject to the road use assessment fee imposed under ORS 818.225 for the entire motor vehicle weight, minus the road use assessment fee for the maximum vehicle weight allowed under the annual variance permit.

(4) The tax for each motor vehicle when table "A" or "B" is used shall be computed by multiplying the extreme mileage of travel in Oregon by the appropriate weight group tax rate as it appears in the table. [Formerly 767.815]

### 825.476 Carrier tax tables.

MILEAGE TAX RATE TABLE "A"

Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)
26,001 to 28,000	36.4
28,001 to 30,000	38.6
30,001 to 32,000	40.3
32,001 to 34,000	42.1
34,001 to 36,000	43.8
36,001 to 38,000	46.0
38,001 to 40,000	47.8
40,001 to 42,000	49.5
42,001 to 44,000	51.3
44,001 to 46,000	53.0
46,001 to 48,000	54.8
48,001 to 50,000	56.6
50,001 to 52,000	58.7
52,001 to 54,000	60.9
54,001 to 56,000	63.1
56,001 to 58,000	65.8
58,001 to 60,000	68.8
60,001 to 62,000	72.3
62,001 to 64,000	76.3
64,001 to 66,000	80.7
66,001 to 68,000	86.4
68,001 to 70,000	92.5
70,001 to 72,000	98.6
72,001 to 74,000	104.3
74,001 to 76,000	109.6
76,001 to 78,000	114.9
78,001 to 80,000	119.7

TAX RATE TABLE "B"

Declared Combined Weight Groups (Pounds)	Number of Axles				
	5	6	7	8	9 or more
80,001 to 82,000	123.6	113.1	105.7	100.4	94.7
82,001 to 84,000	127.6	114.9	107.4	101.7	96.0
84,001 to 86,000	131.5	117.5	109.2	103.0	97.3
86,001 to 88,000	135.9	120.1	110.9	104.8	98.6
88,001 to 90,000	141.2	123.2	112.7	106.5	100.4
90,001 to 92,000	147.3	126.7	114.4	108.3	102.2
92,001 to 94,000	153.9	130.2	116.2	110.0	103.5
94,001 to 96,000	160.9	134.2	118.4	111.8	105.2
96,001 to 98,000	168.4	139.0	121.0	113.6	107.0
98,001 to 100,000		144.2	123.6	115.7	108.7
100,001 to 102,000			126.3	118.4	110.5
102,001 to 104,000			128.9	121.0	112.7
104,001 to 105,500			132.4	123.6	114.9

[Formerly 767.820; 1999 c.1075 §36]

**825.480 Substitute taxes for certain vehicles.** (1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the rate of five dollars and fifty-five cents for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(2) The annual fees provided in subsections (1), (4) and (5) of this section may be paid on a monthly basis. Any carrier electing to pay fees under this method may not change an election during the same calendar year in which the election is made, but may be relieved from the payment due for any month on a motor vehicle which is not operated. A carrier electing to pay fees under this method shall report and pay these fees on or before the 10th of each month for the preceding month's operations. A monthly report shall be made on all vehicles on the annual fee basis including any vehicle not operated for the month.

(3)(a) In lieu of the fees provided in ORS 825.470 to 825.474, motor vehicles described in ORS 825.024 with a combined weight of less than 46,000 pounds that are being operated under a permit issued under ORS 825.102 may pay annual fees for such operation computed at the rate of four dollars and fifty-five cents for each 100 pounds of declared combined weight.

(b) The annual fees provided in this subsection shall be paid in advance but may be paid on a monthly basis on or before the first day of the month. A carrier may be relieved from the fees due for any month during which the motor vehicle is not operated for hire if a statement to that effect is filed with the Department of Transportation on or before the fifth day of the first month for which relief is sought.

(4)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in the operation of motor vehicles equipped with dump bodies and used in the transportation of sand, gravel, rock, dirt, debris, cinders, asphaltic concrete mix, metallic ores and concentrates or raw nonmetallic products, whether crushed or otherwise, moving from mines, pits or quarries may pay annual fees for such operation computed at the rate of five dollars and fifty cents for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt for taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(5)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of wood chips, sawdust, barkdust, hog fuel or shavings may pay annual fees for such operation computed at the rate of twenty-two dollars and forty cents for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movement of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, service or moving from one exempt highway operation to another. [Formerly 767.825]

**825.482 Review of flat fee rates.** The Department of Transportation and the Oregon Transportation Commission shall review flat fee rates established under ORS 825.480 in each even-numbered year and shall recommend to each regular session of the Legislative Assembly any adjustments to the flat fee rates that the department and the commission deem appropriate. [1989 c.992 §28]

**Note:** 825.482 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 825

or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**825.484 Effect of carrier tax law on other taxes; offset of fees or taxes erroneously paid.** (1) The fees or taxes listed in ORS 825.474, 825.476 and 825.480 shall be in addition to, and not in lieu of, other fees and taxes of the state, county or municipality which may be imposed, levied, assessed or collected against the business or property of such carrier. This section does not authorize the imposition of license fees by municipalities upon intercity carriers, or deprive any city within which a passenger motor vehicle, having a seating capacity of not more than seven passengers, is principally operated for hire, from imposing and collecting license fees upon and from such motor vehicle, or the owner or operator thereof, as to such portion of its operations as are wholly within the corporate limits of such city.

(2) ORS 319.510 to 319.880 do not apply to vehicles or fuels used therein when the vehicles are subject to, and report and pay, the tax for the use of Oregon highways based upon the combined weight of the vehicle and in accordance with the weight group rates prescribed in ORS 825.474, 825.476 and 825.480.

(3) When an audit of the operations of a carrier shows that the use fuel taxes reported and paid under ORS chapter 319 should have been reported and paid under this chapter, or that fees or taxes reported and paid under this chapter should have been reported and paid under ORS chapter 319, the fees or taxes erroneously reported and paid under one chapter need not be refunded but may be considered an offset of fees or taxes due under the other chapter. [Formerly 767.830]

**825.486 Credit for fuel tax.** Any tax paid under ORS 319.010 to 319.430 or 319.510 to 319.880 on motor vehicle fuel or fuel as defined in ORS 319.520, either directly by the collection of the tax by the vendor from the consumer or indirectly by adding the amount of the tax to the price of the fuel paid by the customer, is a credit against the amount of tax otherwise due and payable to the state under ORS 825.474, 825.476 and 825.480. A credit under this section shall be allowed when the person claiming the credit submits to the Department of Transportation:

(1) A report under ORS 825.480, 825.490 or 825.492; and

(2) Satisfactory evidence along with the report showing the amount of tax paid by the person under ORS 319.010 to 319.430 or 319.510 to 319.880 during the period reported. [Formerly 767.832]

**825.488 Fees required of interstate carriers.** A person engaged exclusively in the conduct of interstate transportation shall currently pay to the Department of Transportation the road tax mileage fees prescribed by ORS 825.474, 825.476, 825.480, 825.484, 825.490, 825.494 and 825.496. [Formerly 767.835]

**825.490 Due date of taxes and fees; penalty; deficiency assessments; refund of overpayment; limitation on audit.** (1) On or before the last day of each month, except for the time of payment provided in ORS 825.480 and 825.492, all persons shall report and pay to the Department of Transportation the amount of taxes and fees due from them for the preceding calendar month. However, taxes and fees incurred after the 15th day of any month may be reported and paid to the department on or before the last day of the second calendar month following the month in which the taxes or fees were incurred. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

(2) The department may permit a person to report and pay motor carrier taxes and fees on a periodic basis other than the calendar-month basis prescribed in subsection (1) of this section, provided that the number of reporting periods in any 12-month period shall not be less than 12. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

(3) Whenever practicable, and in no event later than three years after any report of taxes or fees is filed, the department shall audit it if the department deems such audit practicable. If the department is not satisfied with the report filed or amount of taxes or fees, including fees for temporary passes required under ORS 825.470 (2), paid to the state by any person, the department may, not later than three years after the report was filed or the taxes or fees were paid, make a proposed assessment of additional taxes or fees due from such person based upon any information available to the department. There shall be added to each such assessment, as a late payment charge, a sum equal to 10 percent of the amount of additional taxes or fees due.

(4) Every such additional assessment shall bear interest at the rate of one percent per month, or fraction thereof, from the last day of the month following the close of the month for which the additional assessment is imposed until paid.

(5) If the additional assessment imposed exceeds by at least five percent but not more than 15 percent the amount of taxes or fees reported or paid a penalty of five percent of the amount of the additional assessment shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(6) If the additional assessment imposed exceeds by more than 15 percent the amount of taxes or fees reported or paid, a penalty of 20 percent of the amount of the additional assessment shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(7) The department shall give to the person concerned written notice of such additional assessment.

(8) Except as provided in ORS 825.484 (3), the department shall refund to any person the amount of any overpayment caused by any incorrect report.

(9) Whenever the department has made an assessment pursuant to this section which has become final the department may not reopen or reassess such taxes, interest or penalties unless the department is satisfied that the taxpayer fraudulently or with

intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by the taxpayer pursuant to this chapter or the rules of the department. [Formerly 767.840]

**825.492 Annual and quarterly reports authorized.** (1) Whenever in the judgment of the Department of Transportation the estimated annual tax payable by a carrier will be less than \$100, and the vehicles operated by the carrier are of less than 30,000 pounds combined weight, the department may authorize the carrier to file reports annually in lieu of monthly reports required by ORS 825.490 and 825.515. Annual reports and accompanying remittances shall be filed on or before the due date of February 28 for the preceding calendar year.

(2) At the request of a motor carrier, the department may authorize the carrier to file quarterly reports in lieu of monthly reports required by ORS 825.490 and 825.515. Quarterly reports and accompanying remittances due shall be filed on or before the due date as follows: First calendar quarter, May 31; second quarter, August 31; third quarter, November 30; fourth quarter, February 28.

(3) Such authorizations may be withdrawn at any time upon the mailing of notice to the carrier at the last address of record of the carrier with the department. Any provisions of ORS 825.490 and 825.515 otherwise applicable to reports and remittances shall be applicable to reports and remittances under this section. [Formerly 767.845; 2001 c.567 §11]

**Note:** The amendments to 825.492 by section 11, chapter 567, Oregon Laws 2001, take effect July 1, 2002. See section 12, chapter 567, Oregon Laws 2001. The text that is effective until July 1, 2002, is set forth for the user's convenience.

**825.492.** (1) Whenever in the judgment of the Department of Transportation the estimated annual tax payable by a carrier will be less than \$100, and the vehicles operated by the carrier are of less than 30,000 pounds combined weight, the department may authorize the carrier to file reports annually in lieu of monthly reports required by ORS 825.490 and 825.515. Annual reports and accompanying remittances shall be filed on or before the due date of February 28 for the preceding calendar year.

(2) Whenever in the judgment of the department the estimated annual tax payable by a carrier under ORS 825.474 will be less than \$3,600, the department may authorize the carrier to file quarterly reports in lieu of monthly reports required by ORS 825.490 and 825.515. Quarterly reports and accompanying remittances due shall be filed on or before the due date as follows: First calendar quarter, May 31; second quarter, August 31; third quarter, November 30; fourth quarter, February 28.

(3) Such authorizations may be withdrawn at any time upon the mailing of notice to the carrier at the last address of record of the carrier with the department. Any provisions of ORS 825.490 and 825.515 otherwise applicable to reports and remittances shall be applicable to reports and remittances under this section.

**825.494 Assessment by department upon failure to report tax or fee due.** (1) If any person neglects or refuses to make a fee or tax report as required by this chapter, the Department of Transportation shall make a proposed assessment, based upon any information available to the department, for the period for which such person failed to make a report, of the amount of taxes and fees, including fees for temporary passes required under ORS 825.470 (2), due for the period for which such proposed assessment is made.

(2) Each assessment shall bear interest at the rate of one percent per month, or fraction thereof, from the last day of the month following the close of the month for which the assessment is imposed until paid.

(3) There shall be added to every such assessment a penalty of 25 percent of the amount thereof.

(4) The department shall give to such person written notice of such assessment.

(5) Whenever the department has made an assessment pursuant to this section which has become final the department may not reopen or reassess such taxes, fees, interest or penalties unless the department is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by a person subject to this chapter or the rules of the department. [Formerly 767.850]

**825.496 Reassessment waiver or reduction upon request; charge for failure to appear at hearing.** (1) Any person against whom an assessment is made under ORS 825.490 or 825.494, may petition the Department of Transportation for a reassessment within 30 days after service upon the person of notice. If a petition is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is filed within the 30-day period the department shall reconsider the assessment and, if the person has requested in the petition, shall grant such person a hearing and give the person 10 days' notice of the time and place of the hearing. The department has power to continue the hearing from time to time as may be necessary. The decision of the department upon a petition for reassessment shall become final 30 days after service of notice upon the person concerned.

(2) The department may waive or reduce the interest and penalties provided in ORS 825.490 (1) to (6) or 825.494 (2) or (3) on those terms as the department considers proper if request for waiver or reduction is made within 30 days after service of notice of assessment upon the person concerned, or as part of the pleas made in the department's reconsideration of the assessment.

(3) Every assessment made by the department under ORS 825.490 to 825.496 becomes due and payable at the time it becomes final and if not paid to the department when due and payable there shall be added to the assessment a penalty of 10 percent of the amount of the tax.

(4) If any person who has requested a hearing pursuant to this section fails to appear at the scheduled hearing and failed to withdraw the petition for reassessment at least five days before the date of the hearing, the department may require such person

to pay a charge of \$150 in addition to any other fees, taxes and charges which may be imposed under this chapter. [Formerly 767.855]

**825.498 Collection of fees, taxes and other moneys.** All fees, taxes and charges imposed by this chapter and ORS chapter 826, all claims and penalties payable by any person under this chapter and ORS chapter 826 and all moneys collected under this chapter and ORS chapter 826, are the property of the state. The Department of Transportation shall collect and receive all fees, taxes, penalties and moneys due or to become due to the state under this chapter and ORS chapter 826 and, to that end, shall bring such actions or take such proceedings, including attachment and garnishment proceedings, in the name of the State of Oregon, as may be necessary. [Formerly 767.860]

**825.500 Calculation of interest and penalties for delinquent road use assessment fees and single-use nondivisible load permits; audit.** (1) Interest and penalties for delinquent payments of road use assessment fees payable pursuant to the provisions of ORS 818.225 and of single-trip nondivisible load permits shall be calculated in the same manner that interest and penalties are calculated under ORS 825.490 and 825.494.

(2) An audit conducted by the Department of Transportation pursuant to its authority under this chapter may include an examination of records of the carrier pertaining to the road use assessment fee imposed under ORS 818.225. If the audit shows that movement by a carrier exceeds the mileage authorized by a single-trip nondivisible load permit, the department shall determine the amount of the road use assessment fee that is due. The department shall collect the amount due and may impose any penalties or additional assessments authorized by this chapter for delinquent payment of taxes. [Formerly 767.862; 1997 c.275 §28]

**825.502 Payment of taxes and fees by credit card; rules.** For payment of any weight-mile taxes and fees, the Department of Transportation may:

(1) Accept payment of taxes and fees by credit card. Any payment made by credit card shall be for the full amount of the tax or fee, except that a surcharge may be added to the amount tendered by the customer to offset fees charged to the department for acceptance and use of the credit card.

(2) Adopt reasonable rules as necessary or proper for the administration of this section. [Formerly 767.863]

**825.504 Warrant procedure for collecting tax, fee, penalty or assessment.** (1) If any tax, or fee in lieu of tax, reported due, or any final assessment made by the Department of Transportation under ORS 825.490, 825.494 and 825.496, including any penalties or charges therein imposed, or any final penalty imposed under ORS 825.950, 825.955 or 825.960, is not paid in full, the department may issue a warrant under the department's official seal directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the taxpayer found within that county, for payment of the amount thereof, with the added penalties or charges, interest and the cost of executing the warrant, and to return such warrant to the department and pay to the department the money collected by virtue thereof by a time to be specified therein, not less than 60 days from the date of the warrant.

(2) The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the name of the taxpayer mentioned in the warrant, and the amount of the tax or portion thereof and penalties or charges for which the warrant is issued and the date when such copy is recorded. Thereupon the amount of the warrant so recorded shall become a lien upon the title to and interest in property of the taxpayer against whom it is issued in the same manner as a judgment duly docketed.

(3) The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for services in executing the warrant, to be added to and collected as a part of the warrant liability.

(4) In the discretion of the Department of Transportation, a warrant of like terms, force and effect to levy upon funds of the taxpayer in possession of the Department of Revenue may be issued and directed to any agent authorized by the Department of Transportation to collect taxes payable under this chapter, and in the execution thereof the agent shall have all of the powers conferred by law upon sheriffs but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(5) The procedures authorized by this section may also be used for collection of any fees and penalties imposed on persons registering vehicles under ORS chapter 826. [Formerly 767.865; 1997 c.275 §29]

**825.506 Deposit or bond to secure payment of fees, taxes, charges and penalties.** (1) If the Department of Transportation finds it necessary in order to insure the collection of any fees, taxes, charges or penalties imposed upon a carrier pursuant to this chapter or ORS 818.225, the department may at the time and as a condition of granting a certificate or permit, or continuing the same, or as a condition of issuing a motor vehicle registration device, require a carrier to deposit and keep on deposit with the department a sum in an amount determined proper by the department, taking into account the nature and scope of the carrier's operations. Moneys deposited under this section shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. The deposit required may be increased or reduced by the department at any time. In determining the necessity for an applicant or carrier to maintain a deposit the department shall consider the applicant or carrier's financial capability and responsibility and the

department's prior experience, if any, in collecting fees, taxes, charges or penalties from the applicant, carrier or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the carrier's authority.

(2) To secure payment of sums payable by the carrier the department may accept in lieu of such deposit:

(a) A bond in the form prescribed by the department; or

(b) Bonds, negotiable by delivery, of the State of Oregon, school districts therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both principal and interest, equal in amount to the amount of the requested deposit.

(3) So long as the deposit remains unencumbered the depositor is entitled to collect the interest upon the securities described in subsection (2)(b) of this section. The department shall hold the securities upon such terms as the department shall designate and approve pursuant to the provisions of this chapter, and shall deliver such securities to the State Treasurer, who shall receive and hold them subject to the lawful orders of the department. The State Treasurer and the surety of the treasurer shall be liable upon the official bond of the treasurer for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by the treasurer in the mailing, insuring, shipping or delivering of any such securities, or of the interest coupons attached thereto as they mature.

(4) If a carrier ceases to be a carrier under this chapter, within a reasonable time of the receipt by the department of all payments due, the department shall refund or have returned to the carrier all deposits and securities remaining to the carrier's credit and shall release the surety on any bond given under this section.

(5) Any applicant or carrier required under this section to make a deposit to secure the payment of fees, taxes, charges or penalties may by proper petition demand a hearing on the necessity of such deposit or the reasonableness of the amount required. A hearing shall be granted and held within 10 days after the demand therefor. The decision of the department shall become final 10 days after service of the order upon the applicant or carrier concerned. [Formerly 767.870]

**825.507 Limitations on cancellation of bond; suspension of authority.** (1) No bond filed pursuant to ORS 825.506 may be canceled or otherwise terminated at any time prior to its expiration until the surety company which executed the same, has filed with the Department of Transportation a notice of cancellation as provided in such bond. Such cancellation shall be effective not less than 30 days from the date of receipt, and no agreement between the parties thereto shall operate to avoid this restriction upon cancellation.

(2) If any bond filed pursuant to ORS 825.506 becomes inoperative, the authority under the certificate or permit involved shall cease and be suspended insofar as it pertains to any affected vehicles until the requirements of ORS 825.506 have been met by the carrier. [Formerly 767.795]

**825.508 Use of collection agency to obtain moneys due.** (1) In carrying out the duties under ORS 825.498, the Department of Transportation may engage the services of a collection agency to collect any of the fees, taxes, penalties and moneys due to the state under this chapter and ORS chapter 826. The department may engage the services by entering into agreements to pay reasonable charges on a contingent fee or other basis.

(2) The department may assign to the collection agency, for collection purposes only, any of the fees, taxes, penalties and moneys due the state under this chapter and ORS chapter 826.

(3) The collection agency may bring such actions or take such proceedings, including attachment and garnishment proceedings, as may be necessary. [Formerly 767.875]

**825.509 Writing off uncollected moneys due.** (1) Any fee, tax, penalty or money due the state assigned to a collection agency pursuant to ORS 825.508 that remains uncollected for two years after the date of such assignment meets the criteria for uncollectibility formulated pursuant to ORS 293.240, and may be assigned to the Secretary of State.

(2) ORS 293.245 applies to any fee, tax, penalty or money due the state assigned to the Secretary of State pursuant to subsection (1) of this section. [Formerly 767.880]

**825.515 Daily records and monthly reports by carriers.** (1) Every for-hire carrier and private carrier shall keep daily records, upon forms prescribed by the Department of Transportation, of all vehicles used during the current month.

(2) On or before the last day of the month following, except as otherwise permitted under ORS 825.492, they shall certify to the department, upon forms prescribed therefor, the true and correct summaries of their daily records which shall show the extreme miles traveled in this state during the preceding month, the amount of fuel tax paid to the state during the preceding month, and such other information as the department may require.

(3) The daily records shall be kept on file in the office of the carrier and thereafter preserved until written permission for their destruction is given by the department. [Formerly 767.905]

**825.517 Certain records not public.** (1) The following are not public records unless the public interest requires disclosure in the particular instance:

(a) Reports from motor carriers required to be filed with the Department of Transportation in connection with the imposition or collection of any tax.

(b) Information collected by the department from a motor carrier for the purpose of conducting a tax audit.

(2) A motor carrier to whom the information pertains, or a person who has written permission from the carrier, may inspect information described in subsection (1) of this section.

(3) The department, upon request or as required by law, shall disclose information from the records described in subsection (1) of this section to a government agency for use in carrying out its governmental functions. [1997 c.501 §2]

(Multijurisdictional Agreements)

**825.550 Multijurisdictional agreement for collection of weight-mile taxes; rules.** (1) The Department of Transportation may enter into an agreement with the authorized representatives of any jurisdiction that imposes weight-mile taxes, in order to form a multijurisdictional agreement for the singular collection of the total weight-mile taxes claimed due by any of the jurisdictions that are party to the agreement. An agreement established under authority granted by this section:

(a) May allow motor carriers to pay the total weight-mile taxes that are claimed due to any jurisdiction that is a party to the agreement.

(b) May provide for collection of all weight-mile taxes claimed due by any party to the agreement, on vehicles that are engaged in interjurisdictional commerce or combined interjurisdictional and intrajurisdictional commerce.

(c) May include provisions necessary to facilitate the determination and distribution of weight-mile tax moneys among the various jurisdictions.

(d) May provide that the department may deny any person further benefits under the agreement until all taxes have been paid, if the department determines that the person should have paid additional taxes.

(e) May provide for arrangements with agencies of this state and other jurisdictions for joint audits of owners of vehicles availing themselves of this agreement and for the exchange of audit information on those owners.

(f) May authorize the department to suspend or cancel any benefits under the agreement, if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.

(2) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section. Nothing in an agreement shall affect the right of the department to adopt rules as described in this section.

(3) An agreement shall be in writing and shall be filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.

(4) Nothing in an agreement shall affect the right of the department to act under this section.

(5) An agreement shall not provide for any benefit, exemption or privilege with respect to any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except weight-mile taxes, fees and requirements.

[Formerly 767.882]

**825.555 International fuel tax agreement; rules; fees.** (1) The Department of Transportation may enter into an international fuel tax agreement with jurisdictions outside of this state to provide for cooperation and assistance among member jurisdictions in the administration and collection of taxes imposed on motor carriers for the consumption of all fuels used in vehicles operated interstate.

(2) An agreement under this section may:

(a) Provide for determining a base state for motor carriers for purposes of the agreement.

(b) Impose record keeping requirements.

(c) Specify audit procedures.

(d) Provide for exchange of information among jurisdictions.

(e) Provide criteria for determining which carriers are eligible to receive the benefits of the agreement.

(f) Define qualified motor vehicles.

(g) Specify conditions under which bonds are required.

(h) Specify reporting requirements and periods, including but not limited to specifying penalty and interest rates for late reporting.

(i) Determine methods for collecting and forwarding of motor fuel taxes, penalties and interest to another jurisdiction.

(j) Provide that the Department of Transportation may deny any person further benefits under the agreement until all motor fuel taxes have been paid, if the department determines that additional motor fuel taxes are owed by the person.

(k) Authorize the department to suspend or cancel benefits under the agreement for any person who violates any term or condition of the agreement or any law or rule of this state relating to motor carriers or vehicles.

(L) Contain such other provisions as will facilitate the agreement.

(3) An agreement may not provide for any benefit, exemption or privilege with respect to any fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except for motor fuel taxes and requirements related to motor fuel taxes.

(4) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section. Nothing in the agreement shall affect the right of the department to adopt rules as provided in ORS chapter 823 and this chapter.

(5) An agreement shall be in writing and shall be filed with the department within 10 days after execution or on the effective date of the agreement, whichever is later.

(6) The department shall adopt rules establishing an annual fee to be paid by each motor carrier receiving benefits from an agreement entered into under this section. In establishing fees, the department shall consider the size of the motor carrier's fleet. Fees established under this subsection shall be designed to recover the full direct and indirect costs to the department that result from participation in the agreement, but the department may not establish a fee under this subsection that exceeds \$650. [Formerly 767.884; 1997 c.275 §30; 2001 c.698 §1]

## PENALTIES

**825.950 Civil penalty for violation of this chapter, ORS chapter 818 or 826, or rule or order of department.** (1)(a) Except as otherwise provided in paragraph (b) of this subsection, in addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of any provision of this chapter, ORS chapter 818 or 826 or any order, rule or decision of the Department of Transportation shall incur a civil penalty of not more than \$100 for every such violation.

(b) In addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of ORS 825.100 shall incur a civil penalty of not more than \$500 for every such violation.

(2) Each such violation shall be a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the civil penalty provided in this section.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.090.

(4) The Department of Transportation may reduce any civil penalty provided for in this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of such penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

(6) Any motor carrier of persons or of household goods found knowingly to have assessed charges for transportation service less than published in its tariffs or written contracts on file with the department may be directed to collect the undercharges from the persons liable therefor and to remit such undercharges to the department in addition to any monetary penalties imposed against the carrier for charging less than the tariff or contract prescribes.

(7) Any motor carrier of persons or of household goods found to have assessed charges for transportation service more than the rates which have been legally filed with and prescribed by the department shall refund the overcharges to the persons from whom collected. If the carrier is unable to do so, the carrier may be required to remit such overcharges to the department in addition to any monetary penalties imposed against the carrier for charging more than the applicable tariff or contract prescribes. [Formerly 767.470; 1997 c.275 §31; 1997 c.722 §1]

**825.955 Civil penalty for violation of provisions relating to drug and alcohol testing programs, out-of-service notice or driver equipment compliance form provisions; rules.** (1) In addition to any other penalties provided by law, the Department of Transportation may impose a civil penalty of not more than \$1,000 for:

(a) Violation of the provisions of an out-of-service notice issued by the department or its authorized representative in conjunction with a safety inspection;

(b) Submittal of a false certification to the department on a driver equipment compliance check form;

(c) Failure by a motor carrier to return to the department as required by rule a driver equipment compliance check form; or

(d) Failure of a motor carrier to establish or participate in a drug and alcohol testing program as required by ORS 825.410.

(2) Each violation specified in subsection (1) of this section is a separate offense, and in the case of a continuing violation, each day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the penalty provided in this section.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.090.

(4) The department may reduce any civil penalty provided for in this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

(6) The department shall adopt rules describing the driver equipment compliance check form referred to in subsection (1) of this section. [Formerly 767.995; 1997 c.275 §32; 1999 c.1099 §5]

**825.960 Department action against employer when department receives notice of violation of out-of-service order; civil penalty.** (1) When the Department of Transportation receives notice that a person has violated an out-of-service order or notice, the department shall impose a civil penalty of not more than \$10,000 on the employer of an operator of a commercial motor vehicle if the department finds that the employer knowingly allowed, permitted, authorized or required the operator to violate the order or notice.

(2) For purposes of this section, “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.

(3) Civil penalties under this section shall be imposed in the manner provided by ORS 183.090.

(4) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter. [Formerly 767.996; 1997 c.275 §33]

**825.990 Criminal penalties.** (1) Except as otherwise provided in subsection (2) of this section, every person who violates or procures, aids or abets violation of this chapter and any person who refuses or fails to obey any order, decision or rule, made under or pursuant to this chapter commits a Class A traffic violation.

(2) Knowingly violating an out-of-service notice issued under authority of the Department of Transportation is a Class A misdemeanor.

(3) A person is subject to the penalties under subsection (4) of this section if the person knowingly:

(a) Transports any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

(c) Materially violates terms of any permit or authority issued to the person under this chapter or ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under this chapter for the safe transportation of hazardous wastes.

(e) Fails to include material information required under rules of the Department of Transportation in any application for any permit or authority to transport hazardous waste under this chapter.

(f) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.

(4) Subject to ORS 153.022, violation of subsection (3) of this section is subject to the penalty of a fine of not more than \$10,000 for each day of violation, imprisonment of not more than six months, or both. [Subsections (1) and (2) formerly 767.990; subsections (3) and (4) formerly 767.993; 1999 c.1051 §233]