Chapter 153

2009 EDITION

Violations and Traffic Offenses

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VIOLATIONS

(Generally)

153.005 Definitions. As used in this chapter:

(1) "Enforcement officer" means:

(a) A member of the Oregon State Police.

(b) A sheriff or deputy sheriff.

(c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

(d) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(e) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon.

(f) A Port of Portland peace officer.

(g) Any other person specifically authorized by law to issue citations for the commission of violations.

(2) "Traffic offense" has the meaning given that term in ORS 801.555.

(3) "Violation" means an offense described in ORS 153.008.

(4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that charges a person with commission of a violation. [1999 c.1051 §2; 2007 c.71 §44; 2009 c.299 §3]

153.008 Violations described. (1) Except as provided in subsection (2) of this section, an offense is a violation if any of the following apply:

(a) The offense is designated as a violation in the statute defining the offense.

(b) The statute prescribing the penalty for the offense provides that the offense is punishable by a fine but does not provide that the offense is punishable by a term of imprisonment. The statute may provide for punishment in addition to a fine as long as the punishment does not include a term of imprisonment.

(c) The offense is created by an ordinance of a county, city, district or other political subdivision of this state with authority to create offenses, and the ordinance provides that violation of the ordinance is punishable by a fine but does not provide that the offense is punishable by a term of imprisonment. The ordinance may provide for punishment in addition to a fine as long as the punishment does not include a term of imprisonment.

(d) The prosecuting attorney has elected to treat the offense as a violation for purposes of a particular case in the manner provided by ORS 161.566.

(e) The court has elected to treat the offense as a violation for purposes of a particular case in the manner provided by ORS 161.568.

(2) Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime. [1999 c.1051 §3]

153.012 Violation categories. Violations are classified for the purpose of sentencing into the following categories:

(1) Class A violations;

(2) Class B violations;

(3) Class C violations;

(4) Class D violations;

(5) Unclassified violations as described in ORS 153.015; and

(6) Specific fine violations as described in ORS 153.015. [1999 c.1051 §4]

153.015 Unclassified and specific fine violations. (1) An offense described in the Oregon Revised Statutes that is designated as a violation but does not specify the classification of the violation is an unclassified violation. An unclassified violation is a Class B violation.

(2) A specific fine violation is any offense described in the Oregon Revised Statutes that:

(a) Is not designated as a crime or as a class A, B, C or D violation;

(b) Is not punishable by a term of imprisonment as a penalty for committing the offense; and

(c) Is punishable by a specific fine as the penalty for committing the offense. [1999 c.1051 §5]

153.018 Schedule of penalties. (1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as provided in this section, a sentence to pay a fine for a violation shall be a sentence to pay an amount not exceeding:

(a) $720 for a Class A violation.

(b) $360 for a Class B violation.

(c) $180 for a Class C violation.

(d) $90 for a Class D violation.

(e) The amount otherwise established by law for any specific fine violation.

(3) If no special corporate fine is specified in the law creating the violation, a sentence to pay a fine for a violation committed by a corporation shall be in an amount not

to exceed twice the fine established under this section for a violation by an individual. If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation.

(4) If a person or corporation has gained money or property through the commission of a violation, instead of sentencing the defendant to pay the fine provided for in subsection (2) or (3) of this section, the court may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the violation. For the purposes of this subsection, the defendant's gain is the amount of money or the value of property, as determined under ORS 164.115, derived from the commission of the violation, less the amount of money or the value of property, as determined under ORS 164.115, returned to the victim of the violation or seized by or surrendered to lawful authority before the time sentence is imposed. [1999 c.1051 §6; 2003 c.737 §103]

153.022 Authority of agency to specify rule violation as particular level of violation. If a statute provides that violation of the rules of an agency constitutes an offense, as described in ORS 161.505, the agency may by rule specify that violation of a specific rule of the agency is subject to a specific fine, or a specific maximum fine, that is less in amount than the maximum fine for the offense specified by the statute. In addition, the agency may specify that violation of the specific rule is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class specified in the rule is lower than the statutory classification for the offense. [1999 c.1051 §76]

153.025 Authority of political subdivision to specify ordinance violation as particular level of violation. (1) If a statute provides that violation of the ordinances of a political subdivision of this state constitutes an offense, as described in ORS 161.505, the political subdivision may by ordinance specify that violation of a specific ordinance of the political subdivision is subject to a specific fine, or a specific maximum fine, that is less in amount than the maximum fine for the offense specified by the statute. In addition, the political subdivision may specify that violation of the specific ordinance is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class specified in the ordinance is lower than the statutory classification for the offense.

(2) Nothing in this section requires a political subdivision to use the classifications established by ORS 153.012 or to use the base fine amount calculated under ORS 153.125 to 153.145 for violations of ordinances adopted by the political subdivision. [1999 c.1051 §78]

(Procedures)

153.030 Applicability; statute of limitations. (1) The procedures provided for in this chapter apply to violations described in ORS 153.008. Except as specifically provided in this chapter, the criminal procedure laws of this state applicable to crimes also apply to violations.

(2) Notwithstanding subsection (1) of this section, the procedures described in this chapter and in the criminal procedure laws of this state do not apply to violations that govern the parking of vehicles and that are created by ordinance or by agency rule.

(3) The statute of limitations for proceedings under this chapter is as provided in ORS 131.125.

(4) This chapter does not affect the ability of a city described in ORS 3.136 (1) to engage in the activities described in ORS 3.136 (3). Nothing in this chapter affects the ability of any other political subdivision of this state to provide for the administrative enforcement of the charter, ordinances, rules and regulations of the political subdivision, including enforcement through imposition of monetary penalties. Except for ordinances governing the parking of vehicles, administrative enforcement as described in this subsection may not be used for any prohibition designated as an offense.

(5) Nothing in this chapter affects the ability of any political subdivision of this state to establish rules relating to administrative enforcement as described in subsection (4) of this section, including rules providing for the use of citations or other procedures for initiating administrative enforcement proceedings.

(6) Nothing in this chapter affects the ability of any political subdivision of this state to conduct hearings for administrative enforcement as described in subsection (4) of this section, either before a hearing officer or before the governing body of the political subdivision.

(7) Nothing in this chapter affects the ability of any political subdivision to bring a civil action to enforce the charter, ordinances, rules and regulations of the political subdivision, or to bring a civil action to enforce any order for administrative enforcement as described in subsection (4) of this section.

(8) Nothing in ORS 153.042 affects the authority of any political subdivision of this state to provide for issuance of citations for violation of offenses created by ordinance on the same basis as the political subdivision

could under the law in effect immediately before January 1, 2000. [1999 c.1051 §7]

153.033 Rules of procedure. The Supreme Court may adopt rules for the conduct of violation proceedings. Rules adopted by the Supreme Court under this section must be consistent with the provisions of this chapter. Rules adopted under this section supersede any local rule of a state court to the extent the local rule is inconsistent with the rule adopted by the Supreme Court. All city ordinances and municipal court rules must conform to any rules adopted by the Supreme Court under this section. [1999 c.1051 §8]

153.036 Venue. (1) A violation proceeding may be commenced in:

(a) The county in which the violation was committed; or

(b) Any other county whose county seat is a shorter distance by road from the place where the violation was committed than is the county seat of the county in which the violation was committed.

(2)(a) If a violation proceeding is commenced in the county in which the violation was committed, the proceeding may be commenced in a circuit or justice court of the county or, if the violation was committed within a city, in the municipal court.

(b) If a violation proceeding is commenced in a county other than the county in which the violation was committed, the proceeding may be commenced:

(A) In a circuit court;

(B) Notwithstanding the provisions of ORS 51.050 that limit the jurisdiction of justice courts to offenses committed within the county, in a justice court; or

(C) If the violation was committed within a city, in the municipal court of the city.

(3)(a) Except as otherwise provided in paragraph (b) of this subsection, if a violation proceeding is commenced in a county other than the county in which the violation was committed, at the request of the defendant the place of trial may be changed to the county in which the violation was committed. A request for a change of the place of trial shall be made prior to the date set for the trial and shall be governed by the provisions of ORS 131.305 to 131.415 relating to change of venue.

(b) A defendant may not request that the place of trial be changed if the violation was committed within a city and the proceeding is commenced in the municipal court of the city.

(4) Except as specifically provided in this section, venue in violation proceedings in circuit courts is governed by ORS 131.305 to 131.415. [1999 c.1051 §12; 1999 c.1051 §12a; 2003 c.528 §1]

153.039 Stop and detention for violation. (1) An enforcement officer may not arrest, stop or detain a person for the commission of a violation except to the extent provided in this section and ORS 810.410.

(2) An enforcement officer may stop and detain any person if the officer has reasonable grounds to believe that the person has committed a violation. An enforcement officer may stop and detain any employee, agent or representative of a firm, corporation or other organization if the officer has reasonable grounds to believe that the firm, corporation or other organization has committed a violation.

(3) Except as provided in subsection (4) of this section, the period of detention may be only as long as is necessary to:

(a) Establish the identity of the person, firm, corporation or organization believed to have committed the violation;

(b) Conduct any investigation reasonably related to the violation; and

(c) Issue a citation for the violation.

(4) The authority of an enforcement officer to stop and detain a person for a traffic violation as defined by ORS 801.557 is governed by ORS 810.410. [1999 c.1051 §10]

153.042 Citations; issuance. (1) Except as provided in ORS 810.410 for issuance of a citation based on a traffic violation, as that term is defined in ORS 801.557, or as otherwise specifically provided by law, an enforcement officer may issue a violation citation only if the conduct alleged to constitute a violation takes place in the presence of the enforcement officer and the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation.

(2) If the person receiving the citation is a firm, corporation or other organization, the citation may be issued to an employee, agent or representative of the firm, corporation or organization. [1999 c.1051 §9]

153.045 Citation; requirements. (1) Except as provided in subsection (5) of this section, a citation conforming to the requirements of this section must be used by enforcement officers for all violations. The citation may contain other language in addition to the language specified in this section.

(2) Uniform citation forms for violations shall be adopted by the Supreme Court under ORS 1.525. In adopting those forms, the Supreme Court may combine the requirements for violation citations under this section and the requirements for criminal citations under ORS 133.066. More than one violation may

be charged on a single citation form, but a crime and a violation may not be charged on the same citation form.

(3) A violation citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

(a) A complaint in the form prescribed by ORS 153.048.

(b) The abstract of court record.

(c) The police record.

(d) A summons in the form prescribed by ORS 153.051.

(4) Each of the parts shall contain the information or blanks required by rules of the Supreme Court under ORS 1.525.

(5) The complaint shall contain a form of certificate in which the enforcement officer must certify, under the penalties provided in ORS 153.990, that the enforcement officer has sufficient grounds to believe, and does believe, that the person named in the complaint committed the violation specified in the complaint. A certificate conforming to this subsection shall be deemed equivalent of a sworn complaint. [1999 c.1051 §13; 2005 c.566 §2]

153.048 Complaint; requirements. (1) The complaint in a violation citation must contain at least the following:

(a) The name of the court, the name of the state or of the city or other public body in whose name the action is brought and the name of the defendant.

(b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have been committed.

(c) A certificate under ORS 153.045 (5) signed by the enforcement officer.

(2) If the complaint does not conform to the requirements of this section, the court shall set the complaint aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(3) A court may amend a complaint in its discretion. [1999 c.1051 §14]

153.051 Summons; requirements. A summons in a violation citation is sufficient if it contains the following:

(1) The name of the court, the name of the person cited, the date on which the citation was issued, the name of the enforcement officer issuing the citation, and the time and place at which the person cited is to appear in court.

(2) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have been committed.

(3) A notice to the person cited that a complaint will be filed with the court based on the violation.

(4) The amount of the base fine, if any, fixed for the violation.

(5) A statement notifying the person that a monetary judgment may be entered against the person for up to the maximum amount of fines, assessments, restitution and other costs allowed by law for the violation if the person fails to make all required appearances at the proceedings. [1999 c.1051 §15]

153.054 Service and filing. Except as provided in ORS 810.439, 811.590, 811.615 or 811.617 or other law, an enforcement officer issuing a violation citation shall cause the summons to be delivered to the person cited and shall cause the complaint and abstract of court record to be delivered to the court. [1999 c.1051 §16]

153.058 Initiation of violation proceeding by private party. (1) A person other than an enforcement officer may commence a violation proceeding by filing a complaint with a court that has jurisdiction over the alleged violation. The filing of the complaint is subject to ORS 153.048. The complaint shall be entered by the court in the court record.

(2) A complaint under this section must contain:

(a) The name of the court, the name and address of the person bringing the action and the name and address of the defendant.

(b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have occurred.

(c) A certificate signed by the complainant stating that the complainant believes that the named defendant committed the violation specifically identified in the complaint and that the complainant has reasonable grounds for that belief. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. Complaints filed under this section are subject to the penalties provided in ORS 153.990.

(3) Upon the filing of a complaint under this section, the court shall cause a summons to be delivered to the defendant and shall deliver a copy of the complaint to the district attorney for the county in which the complaint is filed. The court may require any enforcement officer to serve the summons.

(4) If the complaint does not conform to the requirements of this section, the court shall set it aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(5) A court may, acting in its sole discretion, amend a complaint filed under the provisions of this section.

(6) A court shall dismiss a complaint filed under this section upon the motion of the district attorney for the county or of the city attorney for a city if:

(a) The district attorney or city attorney has brought a proceeding against the defendant named in the complaint or intends to bring a proceeding against the defendant named in the complaint; and

(b) The proceeding is brought by the district attorney or city attorney by reason of the same conduct alleged in the complaint.

(7) Any political subdivision of this state may require by ordinance that violation proceedings for the purpose of enforcing the charter or ordinances of the political subdivision may not be commenced in the manner provided by this section and that those proceedings may be commenced only by enforcement officers.

(8) A person other than an enforcement officer may commence a violation proceeding under this section only for:

(a) Boating violations under ORS chapter 830, or any violation of rules adopted pursuant to ORS chapter 830 if the violation constitutes an offense;

(b) Traffic violations under ORS chapters 801 to 826, or any violation of rules adopted pursuant to those chapters if the violation constitutes an offense;

(c) Violations under the wildlife laws, as described in ORS 496.002, or any violation of rules adopted pursuant to those laws if the violation constitutes an offense;

(d) Violations under the commercial fishing laws, as described in ORS 506.001, or any violation of rules adopted pursuant to those laws if the violation constitutes an offense; or

(e) Violations of ORS 618.121 to 618.161, and violation of rules adopted pursuant to those laws if the violation constitutes an offense. [1999 c.1051 §11]

153.061 Appearance by defendant. (1) Except as provided in subsection (2) of this section, a defendant who has been issued a violation citation must either:

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

(b) Make a first appearance in the manner provided in subsection (3) of this section before the time indicated in the summons.

(2) If a defendant has been issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that a vulnerable user of a public way suffered serious physical injury or death, the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

(3) A defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

(a) The defendant may submit to the court a written or oral request for a trial.

(b) The defendant may enter a plea of no contest by delivering to the court the summons, a check or money order in the amount of the base fine set forth in the summons, and a statement of matters in explanation or mitigation of the violation charged. The delivery of a statement of matters in explanation or mitigation under the provisions of this paragraph constitutes a waiver of trial and consent to the entry of a judgment forfeiting the base fine based on the statement and any other testimony or written statements that may be presented to the court by the citing officer or other witnesses.

(c) The defendant may execute the appearance, waiver of trial and plea of guilty that appears on the summons and deliver the summons and a check or money order in the amount of the base fine set forth in the summons to the court. The defendant may attach a statement of matters in explanation or mitigation of the violation.

(4) The court may require that a defendant requesting a trial under subsection (3)(a) of this section deposit the base fine specified under ORS 153.125 to 153.145 or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount specified by the court, the defendant must personally appear in court at the time indicated in the summons. The amount deposited by the defendant may be applied against any fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

(5) If the defendant personally appears in court at the time indicated in the summons and enters a plea of guilty, the judge shall consider any statement in explanation or mitigation made by the defendant.

(6) The court may require a defendant to appear personally in any case, or may require that all defendants appear in specified categories of cases.

(7) If a defendant has entered a no contest plea or guilty plea in the manner provided in subsection (3)(b) or (c) of this section, and the court determines that the base fine amount is not adequate by reason of previous convictions of the defendant, the nature of the offense charged or other circumstances, the court may require that a trial be held unless an additional fine amount is paid by the defendant before a specified date. Notice of an additional fine amount under this subsection may be given to the defendant by mail. In no event may the court require a total fine amount in excess of the maximum fine established for the violation by statute.

(8) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails to appear at any other subsequent time set for trial or other appearance, the driving privileges of the defendant are subject to suspension under ORS 809.220. [1999 c.1051 §17; 2001 c.817 §2; 2007 c.784 §5]

153.064 Warrant for arrest upon failure to appear. (1) Except as provided in subsection (2) of this section, a warrant for arrest may be issued against a person who fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, only if the person is charged with failure to appear in a violation proceeding under ORS 153.992.

(2) If a person fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, the court may issue an order that requires the defendant to appear and show cause why the defendant should not be held in contempt. The show cause order may be mailed to the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the defendant must be personally served. If the defendant is served and fails to appear at the time specified in the show cause order, the court may issue an arrest warrant for the defendant for the purpose of bringing the defendant before the court. [1999 c.1051 §18]

(Trial)

153.070 When trial required. The court may require that a trial be held in any violation proceeding. If the defendant requests a trial under ORS 153.061, or a trial is required by the court or by law, the court shall set a date, time and place for the trial. [1999 c.1051 §19; 2001 c.19 §2; 2003 c.518 §1]

153.073 Time and place. Unless notice is waived by the defendant, the court shall mail or otherwise provide to the defendant notice of the date, time and place at least five days before the date set for trial under ORS 153.070. If the citation is for a traffic violation, or is for a violation of ORS 471.430, the notice must contain a warning to the defendant that if the defendant fails to appear at the trial, the driving privileges of the defendant are subject to suspension under ORS 809.220. [1999 c.1051 §20; 2001 c.817 §3; 2003 c.518 §1a]

153.076 Conduct of trial. (1) Violation proceedings shall be tried to the court sitting without jury. The trial in a violation proceeding may not be scheduled fewer than seven days after the date that the citation is issued unless the defendant waives the seven-day period.

(2) The state, municipality or political subdivision shall have the burden of proving the charged violation by a preponderance of the evidence.

(3) The pretrial discovery rules in ORS 135.805 to 135.873 apply in violation proceedings.

(4) The defendant may not be required to be a witness in the trial of any violation.

(5) Defense counsel shall not be provided at public expense in any proceeding in which only violations are charged.

(6) A district attorney or city attorney may aid in preparing evidence and obtaining witnesses but, except upon good cause shown to the court, shall not appear in violation proceedings unless counsel for the defendant appears. The court shall ensure that the district attorney or city attorney is given timely notice if defense counsel is to appear at trial. [1999 c.1051 §21]

153.080 Testimony by affidavit. Notwithstanding any other provision of law, the court may admit as evidence in any trial in a violation proceeding the affidavit of a witness in lieu of taking the testimony of the witness orally and in court. The authority granted under this section is subject to all of the following:

(1) Testimony may not be presented by affidavit under the provisions of this section unless the court has adopted rules authorizing the use of affidavits and providing procedures for the introduction and use of the testimony.

(2) The court shall allow testimony by affidavit under this section only upon receiving a signed statement from the defendant

waiving the right to have the testimony presented orally in court.

(3) Testimony by affidavit under this section is not subject to objection as hearsay.

(4) A statement signed by the defendant under subsection (2) of this section does not constitute a waiver of trial unless the affidavit specifically so provides.

(5) Nothing in this section requires that the defendant or any other witness waive the right to appear if other testimony is introduced by affidavit as provided in this section. [1999 c.1051 §22]

153.083 Role of peace officer. Notwithstanding ORS 9.160 and 9.320, in any trial of a violation, whether created by ordinance or statute, in which a city attorney or district attorney does not appear, the peace officer who issued the citation for the offense may present evidence, examine and cross-examine witnesses and make arguments relating to:

(1) The application of statutes and rules to the facts in the case;

(2) The literal meaning of the statutes or rules at issue in the case;

(3) The admissibility of evidence; and

(4) Proper procedures to be used in the trial. [1999 c.805 §1; 1999 c.805 §2; 2003 c.305 §1]

Note: 153.083 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Judgment)

153.090 Provisions of judgment. (1) Judgments entered under this chapter may include:

(a) Imposition of a sentence to pay a fine;

(b) Costs, assessments and restitution authorized by law;

(c) A requirement that the fine, costs, assessments and restitution, if any, be paid out of any base fine;

(d) Remission of any balance of a base fine to the defendant or to any other person designated by the defendant; and

(e) Any other provision authorized by law.

(2) Notwithstanding ORS 137.106, if the court orders restitution in a default judgment entered under ORS 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions imposed, including restitution, and request a hearing to determine whether the defendant is unable to pay or to establish a payment schedule by filing a written request with the court within one year after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability to pay upon receipt of the request and shall give notice to the district attorney. The district attorney shall give notice to the victim of the date, time and place of the hearing. The court may determine a payment schedule for monetary sanctions imposed, including restitution ordered under this subsection, if the defendant establishes at the hearing that the defendant is unable to pay the ordered restitution in full.

(3) If a trial is held in a violation proceeding, or a default judgment is entered against the defendant under ORS 153.102, the court may impose any fine within the statutory limits for the violation. If a defendant pleads no contest under ORS 153.061 (3)(b), or pleads guilty under ORS 153.061 (3)(c), and the court accepts the plea and enters judgment against the defendant, the amount of the fine imposed against the defendant by the court may not exceed the amount of the base fine established for the violation under ORS 153.125 to 153.145.

(4) A judge may suspend operation of any part of a judgment entered under this chapter upon condition that the defendant pay the nonsuspended portion of a fine within a specified period of time. If the defendant fails to pay the nonsuspended portion of the fine within the specified period of time, the suspended portion of the judgment becomes operative without further proceedings by the court and the suspended portion of the fine becomes immediately due and payable.

(5) The court may not recommend a suspension of the defendant's driving privileges unless a trial has been required. The failure of the defendant to appear at the trial does not prevent the court from recommending suspension of the defendant's driving privileges.

(6) Entry of a default judgment under ORS 153.102 does not preclude the arrest and prosecution of the defendant for the crime of failure to appear in a violation proceeding under ORS 153.992.

(7) If a person holds a commercial driver license, a court may not defer entry of a judgment or allow an individual to enter into a diversion program that would prevent a conviction for a traffic offense from appearing on the driving record of the holder. This subsection applies to all traffic offenses, whether committed while driving a motor vehicle or a commercial motor vehicle, but does not apply to parking violations. For purposes of this subsection, a person holds a commercial driver license if on the date of the commission of the offense the person holds a commercial driver license issued by the Department of Transportation or the licensing agency of another jurisdiction that is:

(a) Not expired or if expired, expired less than one year; or

(b) Suspended, but not canceled or revoked. [1999 c.1051 §25; 2003 c.670 §3; 2005 c.649 §30; 2007 c.122 §12; 2007 c.784 §7; 2009 c.395 §4]

153.093 Minimum fine. (1) Notwithstanding any other provision of law, a court or violations bureau may not defer, waive, suspend or otherwise reduce the fine for a violation to an amount that is less than:

(a) 75 percent of the base fine amount established for the offense under ORS 153.125 to 153.145, if the offense is a Class A, B, C or D violation, or an unclassified violation, under ORS 153.012 and 153.015; or

(b) 20 percent of the base fine amount established for the offense under ORS 153.125 to 153.145, if the offense is a specific fine violation as described by ORS 153.015.

(2) Nothing in this section:

(a) Affects the manner in which a court imposes or reduces monetary obligations other than fines.

(b) Allows a court to reduce any fine amount below a minimum fine amount established by statute for the offense.

(c) Affects the ability of a court to establish a payment schedule for fines imposed by the court.

(3) For the purpose of determining whether a fine meets the requirements of subsection (1) of this section, the unitary assessment amount under ORS 137.290 and the county assessment amount under ORS 137.309 shall be included in calculating the amount required under subsection (1) of this section.

(4) The Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of this section. In addition, the Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of ORS 137.290 (4) and 153.630 (4). The Department of Revenue or Secretary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section and ORS 137.290 (4) and 153.630 (4). [1999 c.1095 §3; 1999 c.1095 §5; 2003 c.14 §61; 2003 c.737 §104]

153.096 Suspension of fine in certain cases. (1) In any proceeding for a violation under ORS 830.990 or 830.997, the court may conditionally suspend all or part of any fine or penalty to be imposed on the defendant if the defendant appears personally and agrees to complete at the defendant's own expense a Safe Boating Education Course approved by the State Marine Board under ORS 830.110 (18), within time limits imposed by the court.

(2) In any proceeding for a violation under ORS 830.990 or 830.997, the court shall notify the State Marine Board if the defendant fails to appear at any time as required by law or the court, or fails to comply with any order of the court. [1999 c.1051 §96b]

153.099 Entry; nondefault cases. (1) If a trial is held in a violation proceeding, the court shall enter a judgment based on the evidence presented at the trial.

(2) If the defendant appears and enters a plea of no contest in the manner described in ORS 153.061 (3)(b), and a trial is not otherwise required by the court or by law, the court shall make a decision based on the citation, the statement filed by the defendant and any other information or materials submitted to the court.

(3) If the defendant enters a plea of guilty in the manner described in ORS 153.061 (3)(c), a trial is not otherwise required by the court or by law and the court accepts the plea of guilty, judgment shall be entered against the defendant based on the violation citation. [1999 c.1051 §23; 2007 c.784 §8]

153.102 Entry; default cases. (1) If the defendant in a violation proceeding does not make a first appearance in the manner required by ORS 153.061 within the time allowed, and a trial is not otherwise required by the court or by law, the court may enter a default judgment based on the complaint and any other evidence the judge determines appropriate.

(2) If the defendant makes a first appearance in the manner required by ORS 153.061 within the time allowed and requests a trial, and the defendant subsequently fails to appear at the date, time and place set for any trial or other appearance in the matter, and if a trial is not otherwise required by the court or by law, the court shall enter a judgment based on the complaint and any other evidence the judge determines appropriate. [1999 c.1051 §24]

153.105 Relief from default judgment. If a default judgment is entered against a defendant under ORS 153.102, the court may relieve a defendant from the judgment upon a showing that the failure of the defendant to appear was due to mistake, inadvertence, surprise or excusable neglect. A motion for relief under this section must be made by the defendant within a reasonable time, and in no event may a motion under this section be made more than one year after entry of judgment. [1999 c.1051 §26]

153.108 Effect of judgment. (1) Notwithstanding ORS 131.505 to 131.535, if a person commits both a crime and a violation as part of the same criminal episode, the prosecution for one offense shall not bar the subsequent prosecution for the other. However, evidence of the first conviction shall not be admissible in any subsequent prosecution for the other offense.

(2) Notwithstanding ORS 43.130 and 43.160, no plea, finding or proceeding upon any violation shall be used for the purpose of res judicata or collateral estoppel, nor shall any plea, finding or proceeding upon any violation be admissible as evidence in any civil proceeding. [1999 c.1051 §27]

153.110 [1981 c.692 §11; repealed by 1999 c.1051 §32]

153.111 Distribution of abstracts of convictions. (1) Upon entry of a conviction for a traffic offense, the court shall forward to the Department of Transportation an abstract of conviction in the manner required by ORS 810.375, and a copy of the judgment, if required, under the provisions of ORS 810.375.

(2) Upon entry of a conviction for violation of any provision of the wildlife laws or commercial fishing laws, or any rule promulgated pursuant to those laws, the court that enters the judgment of conviction shall forward to the Department of State Police an abstract of conviction.

(3) Upon entry of a conviction for a compulsory school attendance violation under ORS 339.925, the court shall forward to the Department of Education an abstract of conviction.

(4) Upon entry of a conviction for violation of a weights and measures law subject to penalty under ORS 618.991, the court shall forward to the State Department of Agriculture an abstract of conviction.

(5) Upon entry of a conviction of a boating offense, as defined in ORS 830.005, the court shall forward to the State Marine Board an abstract of conviction.

(6) A court may destroy any abstract not required to be forwarded to an agency under the provisions of this section. [1999 c.1051 §51]

153.120 [1981 c.692 §12; repealed by 1999 c.1051 §32]

(Appeal)

153.121 Appeal. An appeal from a judgment in a violation proceeding may be taken by either party as follows:

(1) From a proceeding in justice court or municipal court, as provided in ORS 138.057 for appeals of violations.

(2) From a proceeding in circuit court, as provided in ORS chapter 19, except that the standard of review is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony. [1999 c.1051 §28; 2005 c.266 §1]

(Base Fine Amounts)

153.125 Base fine amounts generally. (1) The base fine required in violation proceedings under this chapter is the sum of a foundation amount calculated under ORS 153.125 to 153.145 plus the unitary and county assessments established under ORS 137.290 and 137.309, and the offense surcharge under section 2, chapter 659, Oregon Laws 2009, for the violation. The amount of the county assessment under ORS 137.309 shall be calculated using the foundation amount determined under ORS 153.125 to 153.145, and may not be calculated using the maximum fine for the violation.

(2) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used in calculating the base fine required in violation proceedings under this chapter is 50 percent of the maximum fine established for the violation.

(3) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used for a specific fine violation in calculating the base fine required in a violation proceeding under this chapter is the maximum fine provided for the violation.

(4) If the law creating a violation establishes a minimum fine, and the foundation amount calculated for the violation under ORS 153.125 to 153.145 is less than the minimum fine for the violation, the foundation amount to be used in calculating the base fine required in a violation proceeding under this chapter is the minimum fine established for the violation. [1999 c.1051 §35; 2003 c.737 §105; 2009 c.659 §2a]

Note: Section 2b, chapter 659, Oregon Laws 2009, provides:

Sec. 2b. The amendments to ORS 153.125 by section 2a of this 2009 Act apply only to offenses that are committed on or after October 1, 2009, and before July 1, 2011. [2009 c.659 §2b]

Note: The amendments to 153.125 by section 2c, chapter 659, Oregon Laws 2009, become operative July 1, 2011. See section 2d, chapter 659, Oregon Laws 2009. The text that is operative on and after July 1, 2011, is set forth for the user's convenience.

153.125. (1) The base fine required in violation proceedings under this chapter is the sum of a foundation amount calculated under ORS 153.125 to 153.145 plus the unitary and county assessments established under ORS 137.290 and 137.309 for the violation. The amount of the county assessment under ORS 137.309 shall be calculated using the foundation amount determined under ORS 153.125 to 153.145, and may not be calculated using the maximum fine for the violation.

(2) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used in calculating the base fine required in violation proceedings under this chapter is 50 percent of the maximum fine established for the violation.

(3) Except as otherwise provided in ORS 153.125 to 153.145, the foundation amount to be used for a specific fine violation in calculating the base fine required in a violation proceeding under this chapter is the maximum fine provided for the violation.

(4) If the law creating a violation establishes a minimum fine, and the foundation amount calculated for the violation under ORS 153.125 to 153.145 is less than the minimum fine for the violation, the foundation amount to be used in calculating the base fine required in a violation proceeding under this chapter is the minimum fine established for the violation.

153.128 Increased base fine amount for certain violations. (1) If a person is charged with a violation and the enforcement officer issuing the citation notes on the citation that the offense was a substantial contributing factor to an accident that resulted in property damage or personal injury, or that the violation created a substantial risk of injury to another person, the foundation amount to be used in calculating the base fine under ORS 153.125 is 60 percent of the maximum fine established for the violation.

(2) Subsection (1) of this section does not apply to a charge of careless driving under ORS 811.135 if the commission of the offense contributed to an accident and the defendant is charged with a Class A traffic violation. The foundation amount for a charge of careless driving under ORS 811.135 that is charged as a Class A traffic violation shall be calculated under ORS 153.125 (2).

(3) Subsection (1) of this section does not apply to a charge of illegal U-turn under ORS 811.365, if the commission of the offense contributed to an accident and the defendant is charged with a Class B traffic violation. The foundation amount for a charge of illegal U-turn under ORS 811.365 that is charged as a Class B traffic violation shall be calculated under ORS 153.125 (2). [1999 c.1051 §36]

153.130 [1981 c.692 §13; 1999 c.59 §29; repealed by 1999 c.1051 §32]

153.131 Increased base fine amount for certain traffic violations. If a person is charged with a traffic offense, and the enforcement officer issuing the citation notes on the citation that the offense occurred in a highway work zone and is subject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions of ORS 811.483, the foundation amount to be used in calculating the base fine under ORS 153.125 to 153.145 is 80 percent of the maximum fine established for the violation. [1999 c.1051 §37; 1999 c.1071 §§5c,5d; 2007 c.124 §2]

153.134 Base fine amount for violation of wildlife laws. The base fine amount for violation of wildlife laws or rules adopted pursuant to wildlife laws shall be as provided in ORS 496.951. [1999 c.1051 §38]

153.138 Schedule of base fine amounts. The State Court Administrator shall prepare and publish from time to time a schedule of minimum base fine amounts for violations. The schedule prepared by the State Court Administrator under this section shall reflect the base fine amounts for selected violations as calculated under ORS 153.125 to 153.145. [1999 c.1051 §39]

153.140 [1981 c.692 §15; repealed by 1999 c.1051 §32]

153.142 Authority of courts to establish higher base fine amounts. ORS 153.125 to 153.145 establish minimum base fine amounts for violations. Base fine amounts established under ORS 153.125 to 153.145 shall be used in preparing summons for violation citations under ORS 153.051 and for such other purposes as may be provided for in this chapter. Any court of this state may adopt higher base fine amounts for violations subject to the jurisdiction of the court. A political subdivision may establish base fine amounts for violation of ordinances of the political subdivision that are less than or greater than the base fine amounts calculated under ORS 153.125 to 153.145. [1999 c.1051 §34]

153.145 Rounding off. Any base fine amount calculated under ORS 153.125 to 153.145 shall be rounded off to the nearest dollar. [1999 c.1051 §38a]

153.150 [1981 c.692 §16; repealed by 1999 c.1051 §32]

153.160 [1981 c.692 §17; repealed by 1999 c.1051 §32]

153.170 [1981 c.692 §18; repealed by 1999 c.1051 §32]

153.180 [1981 c.692 §19; repealed by 1999 c.1051 §32]

153.190 [1981 c.692 §20; 1985 c.272 §1; 1991 c.824 §3; 1995 c.292 §3; repealed by 1999 c.1051 §32]

153.200 [1981 c.692 §21; repealed by 1999 c.1051 §32]

153.210 [1981 c.692 §22; 1985 c.725 §10; repealed by 1999 c.1051 §32]

153.220 [1981 c.692 §23; 1995 c.658 §80; repealed by 1999 c.1051 §32]

153.230 [1981 c.692 §24; repealed by 1999 c.1051 §32]

153.240 [1981 c.692 §25; repealed by 1999 c.1051 §32]

153.250 [1981 c.692 §26; repealed by 1999 c.1051 §32]

153.260 [1981 c.692 §27; repealed by 1999 c.1051 §32]

153.270 [1981 c.692 §8; repealed by 1999 c.1051 §32]

153.280 [1981 c.692 §28; 1985 c.342 §21; 1995 c.658 §81; 1997 c.389 §13; repealed by 1999 c.1051 §32]

153.290 [1981 c.692 §29; repealed by 1995 c.292 §8]

153.300 [1981 c.692 §30; repealed by 1995 c.292 §8]

153.310 [1981 c.692 §9; 1993 c.531 §4; repealed by 1999 c.1051 §32]

153.325 [1981 c.626 §5; repealed by 1999 c.1051 §32]

153.330 [Formerly 488.210; repealed by 1999 c.1051 §32]

153.335 [Formerly 488.220; repealed by 1999 c.1051 §32]

153.340 [Formerly 488.230; repealed by 1999 c.1051 §32]

153.345 [Formerly 488.240; repealed by 1999 c.1051 §32]

153.350 [Formerly 488.250; repealed by 1999 c.1051 §32]

153.355 [Formerly 488.260; repealed by 1999 c.1051 §32]

153.360 [Formerly 488.270; repealed by 1999 c.1051 §32]

153.365 [Formerly 488.280; repealed by 1999 c.1051 §32]

153.370 [Formerly 488.290; 1985 c.272 §2; 1991 c.931 §§2,2a; 1995 c.292 §4; repealed by 1999 c.1051 §32]

153.375 [Formerly 488.300; repealed by 1999 c.1051 §32]

153.380 [1981 c.626 §6; 1985 c.725 §11; repealed by 1999 c.1051 §32]

153.385 [1981 c.626 §7; 1995 c.658 §82; repealed by 1999 c.1051 §32]

153.390 [1981 c.626 §8; repealed by 1999 c.1051 §32]

153.395 [1981 c.626 §10; repealed by 1999 c.1051 §32]

153.400 [1981 c.626 §11; repealed by 1999 c.1051 §32]

153.405 [1981 c.626 §12; repealed by 1999 c.1051 §32]

153.410 [1981 c.626 §13; repealed by 1999 c.1051 §32]

153.415 [1981 c.626 §14; 1985 c.342 §22; 1995 c.658 §83; 1997 c.389 §14; repealed by 1999 c.1051 §32]

153.420 [1981 c.626 §15; repealed by 1999 c.1051 §32]

153.425 [1981 c.626 §16; repealed by 1995 c.292 §8]

153.430 [1981 c.626 §17; repealed by 1995 c.292 §8]

153.440 [1981 c.626 §9; 1993 c.531 §5; repealed by 1999 c.1051 §32]

153.500 [Formerly 484.010; 1987 c.730 §6; 1991 c.67 §30; 1991 c.208 §4; repealed by 1999 c.1051 §32]

153.505 [Formerly 484.350; repealed by 1999 c.1051 §32]

153.510 [Formerly 484.155; repealed by 1999 c.1051 §32]

153.515 [Formerly 484.150; repealed by 1999 c.1051 §32]

153.520 [Formerly 484.160; repealed by 1999 c.1051 §32]

153.525 [Formerly 484.170; repealed by 1999 c.1051 §32]

153.527 [1989 c.355 §1; repealed by 1999 c.1051 §32]

TRAFFIC OFFENSES

153.530 Designation of speed in complaint and summons charging violation of basic speed rule or speed limit. The complaint and summons in a citation issued for the charges specified in this section shall specify the speed at which the defendant is alleged to have driven and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate, for the district or location. This section applies to the following charges:

(1) Violating the basic speed rule under ORS 811.100.

(2) Violating a speed limit under ORS 811.111. [Formerly 484.175; 1987 c.5 §7; 1987 c.887 §14; 1999 c.1051 §79; 2003 c.819 §12]

153.535 Delivery of summons for certain traffic offenses. (1) Notwithstanding ORS 133.065 and 153.054, a summons may be delivered to a defendant personally or by mail addressed to the defendant's last-known address if:

(a) The summons is for an alleged violation of ORS 803.315, 811.520, 811.530, 815.025, 815.080 to 815.090, 815.115, 815.130, 815.185, 815.210 to 815.255, 815.275, 815.285, 816.030 to 816.300, 816.330, 816.350, 816.360 or 820.360 to 820.380;

(b) The enforcement officer gave a warning for violation of the statute to the defendant based on the officer's observation at the time the violation occurred; and

(c) After the issuance of the warning, the enforcement officer determines that the defendant received two or more warnings within the year immediately preceding the issuance of the warning for violations of the statutes specified in paragraph (a) of this subsection.

(2) Notwithstanding ORS 133.065 and 153.054, a summons may be delivered to a defendant personally or by mail addressed to the defendant's last-known address if:

(a) The summons is for an alleged violation of ORS 807.010, 811.175 or 811.182;

(b) The enforcement officer gave a warning for a traffic violation to the defendant; and

(c) After the issuance of the warning, the enforcement officer determines that the defendant had no valid operator license at the time of the warning.

(3) Proof of mailing summons under this section is sufficient proof of delivery of summons for purposes of ORS 133.065 and 153.054. [Formerly 484.180; 1983 c.338 §890; 1985 c.597 §24; 1987 c.730 §7; 1989 c.782 §36; 1999 c.1051 §80; 2001 c.335 §6]

153.540 [Formerly 484.190; 1983 c.338 §891; 1985 c.669 §16; repealed by 1999 c.1051 §32]

153.545 [Formerly 484.200; repealed by 1999 c.1051 §32]

153.550 [Formerly 484.210; 1983 c.399 §1; 1983 c.507 §2; 1985 c.16 §449; 1985 c.669 §17; repealed by 1999 c.1051 §32]

153.555 [Formerly 484.220; 1985 c.272 §3; 1989 c.472 §6; 1991 c.824 §6; 1995 c.292 §5; repealed by 1999 c.1051 §32]

153.560 [Formerly 484.230; 1983 c.338 §893; repealed by 1999 c.1051 §32]

153.565 [Formerly 484.030; 1995 c.658 §84; repealed by 1999 c.1051 §32]

153.570 [Formerly 484.040; 1983 c.565 §2; repealed by 1999 c.1051 §32]

153.575 [Formerly 484.375; 1983 c.565 §1; repealed by 1999 c.1051 §32]

153.580 [Formerly 484.390; repealed by 1999 c.1051 §32]

153.585 [Formerly 484.395; repealed by 1999 c.1051 §32]

153.590 [Formerly 484.400; repealed by 1999 c.1051 §32]

153.595 [Formerly 484.405; 1985 c.342 §23; 1995 c.658 §85; 1997 c.389 §15; repealed by 1999 c.1051 §32]

153.600 [Formerly 484.310; repealed by 1995 c.292 §8]

153.605 [Formerly 484.320; repealed by 1995 c.292 §8]

153.610 [Formerly 484.355; repealed by 1999 c.1051 §32]

153.615 [Formerly 484.360; 1993 c.531 §6; 1995 c.383 §121a; repealed by 1999 c.1051 §32]

153.620 [Formerly 484.370; repealed by 1999 c.1051 §32]

153.623 [1981 s.s. c.3 §105; 1983 c.571 §1; 1985 c.16 §450; 1987 c.730 §22; 1987 c.887 §15; 1987 c.897 §1; 1991 c.741 §9; 1993 c.531 §7; repealed by 1995 c.383 §122]

153.624 Costs for obtaining driving records. In addition to any other costs charged a person convicted of a traffic offense, a court shall charge as costs and collect from any person convicted of a traffic offense any actual costs incurred in obtaining any driving records relating to the person. All costs collected under this section shall be paid as provided in ORS 153.630 (1). [Formerly 484.145]

153.625 [Formerly 484.240; 1983 c.507 §1; 1985 c.16 §451; 1987 c.137 §1; 1989 c.636 §32; 1999 c.1051 §52; renumbered 810.375 in 1999]

153.630 Disposition of moneys collected by courts. (1) Costs and one-half of all fines collected in traffic offense cases by any court having jurisdiction of the traffic offense shall be paid as follows:

(a) If collected in a circuit court, to be credited and distributed under ORS 137.293 and 137.295, as a monetary obligation payable to the state.

(b) If collected in a justice court, to be credited and distributed under ORS 137.293 and 137.295 to the treasurer of the county in which the offense occurred, as a monetary obligation payable to the county.

(c) If collected in a municipal court, to be credited and distributed under ORS 137.293 and 137.295 to the city treasurer, as a monetary obligation payable to the city.

(2) The other half of such fines shall be paid as follows:

(a) If resulting from prosecutions initiated by or from arrests or complaints made by a member of the Oregon State Police, to be credited and distributed under ORS 137.293 and 137.295, as a monetary obligation payable to the state.

(b) If resulting from prosecutions initiated by or from arrests or complaints made by a motor carrier enforcement officer, to be credited and distributed under ORS 137.293 and 137.295, as a monetary obligation payable to the state.

(c) If resulting from prosecutions initiated by or from arrests or complaints made by a city police officer, including a city marshal or a member of the police of a city or municipal or quasi-municipal corporation, to be credited and distributed under ORS 137.293 and 137.295:

(A) To the treasurer of the city or municipal or quasi-municipal corporation by which such police officer is employed, as a monetary obligation to that political subdivision of the state if the offense occurred within the boundaries of the city or municipal or quasi-municipal corporation; or

(B) As a monetary obligation payable to the state if the offense occurred outside the boundaries of the city or municipal or quasi-municipal corporation.

(d) If resulting from prosecutions initiated by or from arrests or complaints made by a sheriff, deputy sheriff or county weighmaster, to be credited and distributed under ORS 137.293 and 137.295 to the treasurer of the county in which the offense occurred, as a monetary obligation payable to that county and to be credited to the general fund of that county.

(e) If resulting from prosecutions for parking in a winter recreation parking location, to be credited and distributed under ORS 137.293 and 137.295, as a monetary obligation payable to the state.

(f) In other cases, to be credited and distributed under ORS 137.293 and 137.295, as a monetary obligation to the same entity to which payment is made of the half provided for in subsection (1) of this section.

(3) If provisions of subsection (2)(b) or (e) of this section are applicable, and if the fine or penalty imposed is remitted, suspended or stayed, or the offender against whom the fine or penalty was levied or imposed serves time in jail in lieu of paying the fine or penalty or a part thereof, the committing judge or magistrate shall certify the facts thereof in writing to the State Court Administrator in the case of a circuit court or the Department of Revenue in the case of a justice or municipal court not later than the 10th day of the month next following the month in which the fine was remitted or penalty suspended. If any part of the fine is thereafter paid, it shall be remitted to the judge or magistrate who imposed the fine or penalty, who shall distribute it as provided in subsections (1) and (2) of this section.

(4) If a fine is subject to division between two entities under this section and a sentence to pay a fine is imposed by the court, any remittance, suspension or stay of the fine portion of the sentence must be attributed on an equal basis to both of the entities entitled to a share of the fine.

(5) Distribution of fines and costs collected in a justice or municipal court under this section must be made not later than the

last day of the month immediately following the month in which the fines and costs are collected.

(6) All fines collected as a result of citations issued for a violation of ORS 813.095 and credited and distributed to the state under subsections (1)(a) and (2)(a) of this section shall be deposited in the State Police Account established in ORS 181.175 to be used by the Department of State Police for the enforcement of laws concerning driving while under the influence of intoxicants. [Formerly 484.250; 1981 s.s. c.3 §107; 1983 c.164 §1; 1983 c.763 §47; 1985 c.16 §452; 1987 c.905 §17; 1991 c.67 §31; 1993 c.741 §102; 1999 c.1051 §81; 1999 c.1095 §7; 2003 c.301 §1; 2003 c.687 §5; 2003 c.814 §5; 2009 c.614 §3]

153.635 Delinquency in paying moneys under ORS 153.630. If any of the money collected under ORS 153.630 is not paid over as provided in that section by the 10th day of the second calendar month next following the month in which it is received, the person withholding it is delinquent in its payment and, in addition to the penalties prescribed by law, the person is personally liable therefor to the public bodies to which the money is payable, with interest at the rate established under ORS 305.220 from the delinquency date until paid. An action may be maintained in the name of the state for the recovery of the unpaid amounts with interest. [Formerly 484.260; 1989 c.934 §1]

153.705 [Formerly 496.910; repealed by 1999 c.1051 §32]

153.710 [Formerly 496.905; repealed by 1999 c.1051 §32]

153.715 [Formerly 496.915; repealed by 1999 c.1051 §32]

153.720 [Formerly 496.920; repealed by 1999 c.1051 §32]

153.725 [Formerly 496.925; repealed by 1999 c.1051 §32]

153.730 [Formerly 496.927; repealed by 1999 c.1051 §32]

153.745 [Formerly 496.930; repealed by 1999 c.1051 §32]

153.750 [Formerly 496.935; repealed by 1999 c.1051 §32]

153.755 [Formerly 496.940; repealed by 1999 c.1051 §32]

153.760 [Formerly 496.945; 1985 c.272 §4; 1991 c.824 §5; 1995 c.292 §6; repealed by 1999 c.1051 §32]

153.765 [Formerly 496.950; repealed by 1999 c.1051 §32]

153.766 [1997 c.389 §17; repealed by 1999 c.1051 §32]

MISCELLANEOUS

153.770 Electronic filing of complaint for offenses subject to citation by uniform citation. (1) Notwithstanding ORS 1.525, 153.045, 221.333 and 810.425, a law enforcement officer or a person authorized to enforce parking ordinance violations, following procedures established by court rule, may file a complaint with the court by electronic means, without an actual signature of the officer, in lieu of using a written uniform citation. Law enforcement officers who file complaints under this section will be deemed to certify to the complaint and will continue to have the same rights, responsibilities and liabilities in relation to those complaints as to complaints that are certified by an actual signature.

(2) A court may allow electronic filing of complaints as described under subsection (1) of this section. Procedures established to allow electronic filing of complaints under this section shall be established by court rule and shall include procedures necessary to ensure that:

(a) The information electronically filed includes all information required on a uniform citation adopted by the Supreme Court under ORS 1.525, or as required under ORS 221.333 and 810.425 for parking ordinance violations.

(b) The complaint filed electronically is verifiable as being filed by a specific law enforcement officer or, for parking ordinance violations, by a person authorized to enforce parking ordinance violations.

(c) Members of the public can obtain copies of and review complaints that are electronically filed and maintained under this section in the same manner as for complaints filed on paper. [1995 c.781 §53; 1999 c.1051 §129; 2001 c.911 §2]

153.772 Suspension of driving privileges for failure to appear; limitation on district attorney's authority. When the court issues a notice under ORS 809.220 to suspend the driving privileges of a person for failure to appear on a citation for a violation of ORS 471.430, the district attorney may not file an accusatory instrument charging the person with violating ORS 153.992. [2001 c.817 §9]

Note: 153.772 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

VIOLATIONS BUREAU

153.800 Violations Bureau; establishment; authority of violations clerk. (1) Any court of this state may establish a Violations Bureau and designate the clerk or deputy clerk of the court or any other appropriate person to act as a violations clerk for the Violations Bureau. A Violations Bureau shall be established by each circuit court unless the Chief Justice of the Supreme Court issues a written exemption to the presiding judge for the court. The vio-

lations clerk shall serve under the direction and control of the court appointing the clerk.

(2) A violations clerk may exercise authority over any violation. A court establishing a Violations Bureau shall by order specify the violations that are subject to the authority of the violations clerk.

(3) Except as provided in subsection (6) of this section, the violations clerk shall accept:

(a) Written appearance, waiver of trial, plea of guilty and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or

(b) Payment of base fine amounts for violations that are subject to the authority of the violations clerk.

(4) The court shall establish schedules, within the limits prescribed by law, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. The order of the court establishing the schedules shall be prominently posted in the place where penalties established under the schedule are paid. All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.

(5) Any person charged with a violation within the authority of the violations clerk may:

(a) Upon signing an appearance, plea of guilty and waiver of trial, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

(b) Pay the clerk the base fine amount established for the violation. Payment of the base fine amount under this paragraph constitutes consent to forfeiture of the base fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of base fine amount under this paragraph is not consent to forfeiture of the base fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

(6) A person who has been found guilty of, or who has signed a plea of guilty or no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court shall not be permitted to appear before the violations clerk unless the court, by general order applying to certain specified offenses, permits such appearance. [1995 c.292 §1; 1997 c.801 §149; 1999 c.59 §30; 1999 c.1051 §130]

153.805 [Formerly 136.750; repealed by 1999 c.1051 §32]

153.808 [Formerly 136.753; repealed by 1999 c.1051 §32]

153.810 [Formerly 136.756; repealed by 1999 c.1051 §32]

MULTNOMAH COUNTY PARKING VIOLATION PROCEDURES

153.820 Special procedures for parking violations in Multnomah County. (1) A court may use the procedure provided in this section only in a county with a population of more than 500,000.

(2) The court may proceed to make a determination without a hearing on a citation for a parking violation if:

(a) None of the registered owners of the vehicle appears within the time allowed at the court specified in the citation;

(b) Notice of the citation and the provisions of this section are mailed to the registered owner or owners of the vehicle at the address or addresses reflected in the records of the Department of Transportation; and

(c) No request for hearing or other appearance is filed with the court within 60 days after the mailing date of the notice required by paragraph (b) of this subsection.

(3) The court may proceed to make a determination without a hearing on a citation for a parking violation if at least one of the registered owners of the vehicle appears within the time allowed at the court specified in the citation and requests a hearing, but thereafter fails to appear at the time, date and court set for any subsequent hearing in the matter. If a determination is made under the provisions of this subsection, the court shall mail notice of any sentence and judgment to the registered owner or owners of the vehicle at the address or addresses reflected in the records of the Department of Transportation.

(4) A determination under this section shall be on the citation and on any evidence that the court may, in its discretion, determine to be appropriate.

(5) Upon making a determination under this section, the court may enter judgment and, if the determination is one of conviction, may impose a sentence of a fine within the limits established for the parking violation along with a money award for costs, assessments and other amounts authorized by law.

(6) A sentence to pay a fine under this section does not prevent:

(a) Taking any other action against the person as permitted by law for the person's failure to comply, including, but not limited to, sentencing the person further as permitted by law after the person is brought to hearing.

(b) Following any procedures established by law when the person fails to appear.

(7) On motion and upon such terms as are just, the court may relieve a person from a judgment entered under this section upon a showing that the failure of the person to appear was due to mistake, inadvertence, surprise or excusable neglect. The motion must be made within a reasonable time, and in no event more than one year after entry of judgment in the matter.

(8) A judgment may be entered under this section only if the citation issued to the person contains a statement notifying the person that a judgment may be entered against the person up to the maximum amount of fines, assessments and other costs allowed by law for the parking violation if the person fails to appear at the time, date and court specified in the citation or fails to appear at subsequently scheduled hearings in the matter.

(9) Notwithstanding any other provision of law, a judgment entered under this section does not create a judgment lien and cannot become a judgment lien by any means. [1997 c.801 §98; 2003 c.576 §172]

PENALTIES

153.990 Penalty for false certification. Any person who in connection with the issuance of a citation, or the filing of a complaint, under this chapter, knowingly certifies falsely to the matters set forth therein commits a Class A misdemeanor. [1981 c.692 §14; 1999 c.1051 §31]

153.992 Penalty for failure to appear. (1) A person commits the offense of failure to appear in a violation proceeding if the person has been served with a violation citation issued under this chapter and the person knowingly fails to do any of the following:

(a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.

(b) Make appearance at the time set for trial in the violation proceeding.

(c) Appear at any other time required by the court or by law.

(2) Failure to appear on a violation citation is a Class A misdemeanor. [1999 c.1051 §29]

153.995 [Formerly 484.990; repealed by 1999 c.1051 §32]

153.997 [1991 c.806 §1; repealed by 1999 c.1051 §32]

CHAPTERS 154 AND 155

[Reserved for expansion]