

Chapter 482

Operators' and Chauffeurs' Licenses

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CASE CITATIONS: *State v. Wojahn*, (1955) 204 Or 84, 282 P2d 675; *Stehle v. Dept. of Motor Vehicles*, (1962) 229 Or 543, 368 P2d 386, 97 ALR2d 1359.

ATTY. GEN. OPINIONS: Owner and operator of truck as chauffeur, 1948-50, p 200; authority of Secretary of State to establish branch offices for administration of this chapter, 1950-52, p 27; payment by State Treasurer of expenses of branch office established by Secretary of State, 1950-52, p 33; payment of operating expenses by State Treasurer, 1950-52, p 52; licensing authority as exclusively within powers of Secretary of State, 1950-52, p 306; funds received under this chapter as deposited in State Treasury, 1960-62, p 338; transfer of funds after expenses to State Highway Fund, 1962-64, p 67; funds excepted from operation of ORS 481.950, 1964-66, p 295; state traffic offense as violation involving misdemeanor penalty, 1966-68, p 420.

482.010

CASE CITATIONS: *State v. Robinson*, (1963) 235 Or 524, 385 P2d 754; *City of Oakland v. Moore*, (1969) 1 Or App 80, 457 P2d 659, Sup Ct review denied.

ATTY. GEN. OPINIONS: Operators of motor vehicles selling bakery products as "chauffeurs," 1938-40, p 582; one who transports another's logs on trucks, pursuant to a contract based on valuable consideration as "chauffeur," 1944-46, p 499; owner and operator of a truck as a "chauffeur," 1948-50, p 200; teachers, principals, coaches and certain students as "chauffeurs," 1950-52, p 233.

LAW REVIEW CITATIONS: 1 WLJ 461.

482.020

NOTES OF DECISIONS

Definition of "operator" in this section is not binding in construing insurance contracts. *Schaeffer v. Mill Owners Ins. Co.*, (1965) 242 Or 150, 407 P2d 614.

FURTHER CITATIONS: *Volmer v. Volmer*, (1962) 231 Or 57, 371 P2d 70.

488.030

ATTY. GEN. OPINIONS: Suspension of license of driver found guilty of reckless driving in another state, 1950-52, p 80.

482.040

NOTES OF DECISIONS

The record did not support a holding that the confession was a product of illegal arrest and custody. *Allen v. Cupp*, (1970) 426 F2d 756, rev'g 298 F Supp 432. Superseding *State v. Allen*, (1967) 248 Or 376, 434 P2d 740.

FURTHER CITATIONS: *State v. Allen*, (1965) 239 Or 524, 398 P2d 477; *State v. Riner*, (1971) 92 Or App Adv Sh 1493, 485 P2d 1234, Sup Ct review denied.

ATTY. GEN. OPINIONS: Duty of Oregon motorist to obtain operator's license although he has a California operator's license, 1930-1932, p 327; liability of examiner for accident during driving examination of unlicensed operator, 1930-32, p 463; classification of certain public service company employes and electric company employes as chauffeurs, 1930-32, p 662; mail carrier as chauffeur, 1932-34, p 450; owner and operator of truck as chauffeur, 1948-50, p 200; person driving during period when his suspended driver's license would have expired, 1954-56, 139; simultaneous charges under ORS 482.300 and 482.650, 1966-68, p 459.

482.050

CASE CITATIONS: *State v. Allen*, (1967) 248 Or 376, 434 P2d 740; *Allen v. Cupp*, (1970) 426 F2d 756; *State v. Riner*, (1971) 92 Or App Adv Sh 1493, 485 P2d 1234, Sup Ct review denied.

ATTY. GEN. OPINIONS: Residence of person living in this state with his family, so as to be convenient to his work, although he intends to return to the state of his domicile on termination of his employment at some indefinite future time, 1942-44, p 214.

482.060

ATTY. GEN. OPINIONS: Oregon resident driving with California driver's license, 1930-32, p 327; liability of examiner for accident during driving examination of unlicensed operator, 1930-32, p 463; classification of certain public service employes and electric company employes as chauffeurs, 1930-32, p 662; mail carrier as chauffeur, 1932-34, p 450; exempting United States Army personnel operating official vehicle, 1948-50, p 430; persons expressly exempted from licensing requirements, 1954-56, p 139.

482.110

NOTES OF DECISIONS

This provision is a legislative determination that a child of the age stated does not possess the judgment and discretion necessary to operate a vehicle upon a public highway. *Millar v. Semler*, (1931) 137 Or 610, 2 P2d 233, 3 P2d 987.

The owner of an automobile permitting a child of the age forbidden by the statute to drive, to operate an automobile on a public street is liable for resultant injury to a person not at fault. Id.

Implicit in this section is the policy that the behavior of children and of adults is to be judged by the same standard. *Nielsen v. Brown*, (1962) 232 Or 426, 374 P2d 896.

482.160**NOTES OF DECISIONS**

An automobile liability indemnity insurance policy excepting operators under "age fixed by law" covered liability for an injury occurring while the automobile was driven by an unlicensed person 15 years of age on way home from school. *Johnson v. Travelers' Ins. Co.*, (1934) 147 Or 345, 32 P2d 587.

ATTY. GEN. OPINIONS: Persons expressly exempted from licensing requirements, 1954-56, p 139.

LAW REVIEW CITATIONS: 1 WLJ 581.

482.170

CASE CITATIONS: *Nielsen v. Brown*, (1962) 232 Or 426, 374 P2d 896.

ATTY. GEN. OPINIONS: Payment of additional beginner's permit fee to Student Driver Training Support Fund as unconstitutional, 1954-56, p 95; persons expressly exempted from licensing requirements, 1954-56, p 139.

482.190 to 482.198

LAW REVIEW CITATIONS: 44 OLR 320.

482.220

CASE CITATIONS: *Johnson v. Travelers' Ins. Co.*, (1934) 147 Or 345, 32 P2d 587.

LAW REVIEW CITATIONS: 1 WLJ 581.

482.230

ATTY. GEN. OPINIONS: Necessity of parent's signature on application of married girl under 18, 1930-32, p 352.

482.240**NOTES OF DECISIONS**

Blindness in one eye did not incapacitate per se defendant from operating a motorcycle under former similar statute incapacitating persons whose eyesight was greatly impaired. *Wilson v. Bittner*, (1929) 129 Or 122, 276 P 268, 64 ALR 132.

LAW REVIEW CITATIONS: 1 WLJ 581.

482.250

ATTY. GEN. OPINIONS: Subsection (5) as tax rather than regulation, 1954-56, p 94; student driver training fund, 1956-58, p 101; charging administrative expenses against collections for Student Driver Training and Motor Vehicle Accident Fund, 1964-66, p 295; separability of 1965 amendment, 1964-66, p 326; liability for prior expenses of collecting Motor Vehicle Accident Fund, 1966-68, p 222.

482.260

CASE CITATIONS: *Dungey v. Fairview Farms, Inc.*, (1955) 205 Or 615, 290 P2d 181; *Stehle v. Dept. of Motor Vehicles*, (1962) 229 Or 543, 368 P2d 386, 97 ALR2d 1359.

ATTY. GEN. OPINIONS: Liability of examiner for accident during driving examination of unlicensed operator, 1930-32, p 463; authority of Secretary of State to withhold from the

public the names of persons requesting reexamination of drivers, 1950-52, p 104.

482.270

ATTY. GEN. OPINIONS: Violation of special restricted license following suspension of original license as driving without license, 1950-52, p 306; persons expressly exempted from licensing requirements, 1954-56, p 139.

482.280

ATTY. GEN. OPINIONS: Application of subsection (3) to violation of special restricted license issued after suspension of ordinary driver's license, 1950-52, p 306.

482.290**NOTES OF DECISIONS**

Failure to report change of address does not relieve plaintiff from conforming to statutes requiring due diligence. *State ex rel. Pratt v. Main*, (1969) 253 Or 408, 454 P2d 643.

482.300

CASE CITATIONS: *State v. Allen*, (1967) 248 Or 376, 434 P2d 740.

ATTY. GEN. OPINIONS: Introduction of license at trial as perfect defense, 1954-56, p 139; simultaneous charges under this section and ORS 482.650, 1966-68, p 459.

482.310

ATTY. GEN. OPINIONS: Liability of examiner for damages resulting from an accident while conducting examination, 1930-32, p 463.

482.320

ATTY. GEN. OPINIONS: Secretary of State as required to file, as a public record, any information concerning applicants for operators' licenses, not contained in application, 1934-36, p 293; furnishing information relating to records and files of operators' and chauffeurs' licenses to interested parties, 1938-40, p 660; records maintained under this section as public records, 1950-52, p 104.

482.420

ATTY. GEN. OPINIONS: Licenses as issued for two years, 1954-56, p 139.

482.430

CASE CITATIONS: *State v. Robinson*, (1963) 235 Or 524, 385 P2d 754.

ATTY. GEN. OPINIONS: Revocation of license for a conviction of crime, 1930-32, p 672; relation back of revocation of license, 1930-32, p 749; revocation of license though conviction for driving while intoxicated is appealed, 1934-36, p 33; right of person whose motor vehicle license has been revoked to operate a fire truck of a fire department of an incorporated city without having such license reinstated, 1936-38, p 27; violation of special restricted license following suspension of original license as driving without license, 1950-52, p 306; reinstatement of license in recognition of a court's recommendation, 1952-54, p 234.

482.440

CASE CITATIONS: *Stehle v. Dept. of Motor Vehicles*, (1962) 229 Or 543, 368 P2d 386, 97 ALR2d 1359.

ATTY. GEN. OPINIONS: Violation of special restricted license following suspension of original license as driving without license, 1950-52, p 306; person driving without license during period when his suspended driver's license would have expired, 1954-56, p 139; simultaneous charges under ORS 482.300 and 482.650, 1966-68, p 459.

482.450

NOTES OF DECISIONS

Reinstatement of a license does not purge the driver's record of prior violations, and it is proper for the department or court to take into account such violations along with new violations charged in determining whether petitioner's license should be revoked or suspended. *Stehle v. Dept. of Motor Vehicles*, (1962) 229 Or 543, 368 P2d 386, 97 ALR2d 1359.

ATTY. GEN. OPINIONS: Suspension of license of driver found guilty of reckless driving in another state, 1950-52, p 80; discretionary suspension by Secretary of State, 1950-52, p 306.

LAW REVIEW CITATIONS: 1 WLJ 226, 228.

482.460

ATTY. GEN. OPINIONS: Forfeiture of bail whether in a court of this or a sister state as supporting a revocation of a motor vehicle operator's license, 1942-44, p 436; suspension of license of driver found guilty of reckless driving in another state, 1950-52, p 80.

482.470

ATTY. GEN. OPINIONS: Suspension of special restricted license, 1950-52, p 306; automatic termination of suspension period, 1954-56, p 139.

482.480

ATTY. GEN. OPINIONS: Forwarding by city recorders of abstract court record to the Secretary of State, 1930-32, p 404; rescinding revocation of a motor vehicle operator's license, for conviction of law violation, by the Secretary of State upon receipt of written notice from the judge before whom the conviction occurred that an appeal from the conviction has been duly taken by the licensee, 1944-46, p 38; suspension of license of driver found guilty of reckless driving in another state, 1950-52, p 80; recommendation of convicting court for partial reinstatement, 1950-52, p 306; reinstatement of license in recognition of a court's recommendation, 1952-54, p 234; authority of department to act on a juvenile court recommendation for other than motor vehicle related violation, 1966-68, p 128.

482.490

NOTES OF DECISIONS

Reinstatement of a license does not purge the driver's record of prior violations, and it is proper for the department or court to take into account such violations along with new violations charged in determining whether petitioner's license should be revoked or suspended. *Stehle v. Dept. of Motor Vehicles*, (1962) 229 Or 543, 368 P2d 386, 97 ALR2d 1359.

ATTY. GEN. OPINIONS: Circuit courts as having exclusive jurisdiction to review decisions of Secretary of State, 1950-52, p 306; effect of rescission on acts committed during suspension, 1966-68, p 6.

LAW REVIEW CITATIONS: 41 OLR 121; 1 WLJ 228.

482.500

ATTY. GEN. OPINIONS: After a valid revocation of an operator's license, the Secretary of State as not taking further action until the operator qualifies for reinstatement, 1942-44, p 436.

482.510

ATTY. GEN. OPINIONS: Recommendation of convicting court for partial reinstatement, 1950-52, p 306; effect of rescission on acts committed during suspension, 1966-68, p 6.

482.540

CASE CITATIONS: *Heer v. Dept. of Motor Vehicles*, (1969) 252 Or 455, 450 P2d 533; *Burbage v. Dept. of Motor Vehicles*, (1969) 252 Or 486, 450 P2d 775; *Garcia v. Dept. of Motor Vehicles*, (1969) 253 Or 505, 456 P2d 85; *Sowles v. Dept. of Motor Vehicles*, (1970) 3 Or App 117, 472 P2d 839; *Stratikos v. Dept. of Motor Vehicles*, (1970) 4 Or App 313, 477 P2d 237, 478 P2d 654, Sup Ct review denied; *Thorp v. Dept. of Motor Vehicles*, (1971) 4 Or App 552, 480 P2d 716; *Dorr v. Dept. of Motor Vehicles*, (1971) 5 Or App 170, 483 P2d 105.

ATTY. GEN. OPINIONS: Power of Emergency Board to authorize expenditure of Highway Fund by State Board of Health and State Police, 1964-66, p 277.

482.550

NOTES OF DECISIONS

On appeal to circuit court, the arresting officer is not an indispensable witness to the fact that he had reasonable grounds to believe appellant had been driving in violation of the statute. *Dorr v. Dept. of Motor Vehicles*, (1971) 5 Or App 170, 483 P2d 105.

FURTHER CITATIONS: *Heer v. Dept. of Motor Vehicles*, (1969) 252 Or 455, 450 P2d 533; *Burbage v. Dept. of Motor Vehicles*, (1969) 252 Or 486, 450 P2d 775; *Garcia v. Dept. of Motor Vehicles*, (1969) 253 Or 505, 456 P2d 85; *Sowles v. Dept. of Motor Vehicles*, (1970) 3 Or App 117, 472 P2d 839; *Stratikos v. Dept. of Motor Vehicles*, (1970) 4 Or App 313, 477 P2d 237, 478 P2d 654, Sup Ct review denied.

ATTY. GEN. OPINIONS: Use of State Highway Fund for implementation of this section, 1964-66, p 277.

482.560

NOTES OF DECISIONS

In all respects, other than the method of selection and the challenges available to each side, the jury trial shall be conducted as in any civil action. *Burbage v. Dept. of Motor Vehicles*, (1969) 252 Or 486, 450 P2d 775; *Garcia v. Dept. of Motor Vehicles*, (1969) 253 Or 505, 456 P2d 85; *Stratikos v. Dept. of Motor Vehicles*, (1970) 4 Or App 313, 477 P2d 237, 478 P2d 654, Sup Ct review denied; *Thorp v. Dept. of Motor Vehicles*, (1971) 4 Or App 552, 480 P2d 716.

The burden of proof is on petitioner. *Burbage v. Dept. of Motor Vehicles*, (1969) 252 Or 486, 450 P2d 775; *Garcia v. Dept. of Motor Vehicles*, (1969) 253 Or 505, 456 P2d 85;

Thorp v. Dept. of Motor Vehicles, (1971) 4 Or App 552, 480 P2d 716; Dorr v. Dept. of Motor Vehicles, (1971) 5 Or App 170, 483 P2d 105; Andros v. Dept. of Motor Vehicles, (1971) 5 Or App 418, 485 P2d 635.

Petitioner is not required to set forth in his petition all the findings and conclusions made by the hearing officer. Garcia v. Dept. of Motor Vehicles, (1969) 253 Or 505, 456 P2d 85.

In an appeal under this section, the petition should allege exhaustion of petitioner's administrative remedies. Sowles v. Dept. of Motor Vehicles, (1970) 3 Or App 117, 472 P2d 839.

Waiver of a jury trial is controlled by the statute covering waiver in civil actions. Thorp v. Dept. of Motor Vehicles, (1971) 4 Or App 552, 480 P2d 716.

FURTHER CITATIONS: Heer v. Dept. of Motor Vehicles, (1969) 252 Or 455, 450 P2d 533; Johnson v. Dept. of Motor Vehicles, (1971) 5 Or App 617, 485 P2d 1258; Warner v. Motor Vehicles Div., (1971) 5 Or App 612, 485 P2d 1248.

ATTY. GEN. OPINIONS: Power of Emergency Board to authorize expenditure of Highway Fund by State Board of Health and State Police, 1964-66, p 277.

482.570

NOTES OF DECISIONS

Actual receipt of notice of suspension by the party is required before the suspension is effective. Hall v. Dept. of Motor Vehicles, (1970) 2 Or App 248, 467 P2d 975.

FURTHER CITATIONS: Heer v. Dept. of Motor Vehicles, (1969) 252 Or 455, 450 P2d 533; Burbage v. Dept. of Motor Vehicles, (1969) 252 Or 486, 450 P2d 775; Stratikos v. Dept. of Motor Vehicles, (1971) 4 Or App 313, 477 P2d 237, 478 P2d 654, Sup Ct review denied.

482.580

CASE CITATIONS: Heer v. Dept. of Motor Vehicles, (1969) 252 Or 455, 450 P2d 533; Burbage v. Dept. of Motor Vehicles,

(1969) 252 Or 486, 450 P2d 775; Stratikos v. Dept of Motor Vehicles, (1971) 4 Or App 313, 477 P2d 237, 478 P2d 654, Sup Ct review denied.

482.620

CASE CITATIONS: Gossett v. Van Egmond, (1945) 176 Or 134, 155 P2d 304.

LAW REVIEW CITATIONS: 1 WLJ 582.

482.630

ATTY. GEN. OPINIONS: An ambulance as within this section, 1938-40, p 433.

482.650

CASE CITATIONS: State v. Allen, (1965) 239 Or 524, 398 P2d 477; City of Oakland v. Moore, (1969) 1 Or App 80, 457 P2d 659, Sup Ct review denied.

ATTY. GEN. OPINIONS: Person driving without license during period when his suspended driver's license would have expired, 1954-56, p 139; effect of rescission on acts committed during suspension, 1966-68, p 6; impoundment procedure for violation, 1966-68, pp 407, 420, 461; simultaneous charges under this section and ORS 482.300, 1966-68, p 459.

482.990

ATTY. GEN. OPINIONS: Section under which all violations except driving under revoked or suspended licenses are punished, 1950-52, p 306; comparing penalty for driving while license suspended with that for driving while license revoked, 1954-56, p 139; impounding of vehicle for period longer than ownership interest of lessee, 1966-68, p 437; simultaneous charges under ORS 482.300 and 482.650, 1966-68, p 459; impoundment procedure for violation, 1966-68, pp 420, 461.