

**Department of Transportation**  
**Administrative Rules Annual Report**  
**HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

**Chapter 731**

**Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]**

Adopted	21
Amended	16
Repealed	15

**Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]**

Adopted	0
Amended	0
Suspended	0

**Department of Transportation, Public Transit Division**

**Administrative Rules Annual Report**

**HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

**Chapter 732**

**Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]**

Adopted	0
Amended	0
Repealed	0

**Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]**

Adopted	0
Amended	0
Suspended	0

## Department of Transportation, Highway Division

### Administrative Rules Annual Report

#### HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

#### Chapter 734

##### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	8
Amended	14
Repealed	0

##### Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	8
Suspended	0

#### HWD 4-2019

Filed: 08/19/2019 1:38 PM

734-074-0010	Amend
734-074-0020	Amend
734-074-0028	Amend
734-074-0030	Amend
734-074-0045	Amend
734-074-0051	Amend

#### Statement of Need

The 2019 Oregon Legislature recently passed House Bill 2591 which amends ORS 818.210. The amendment authorizes the permitting of the combination of a truck-tractor operating with two property-carrying units when such a combination exceeds the maximum length mandates of ORS 818.080, provided that:

- 1) The total length of the combination does not exceed 82 feet 8 inches;
- 2) Only sugar beets are being transported; and,
- 3) The combination only travels along specified routes in the vicinity of Vale, Ontario, and Nyssa, Oregon.

Currently, such combinations are not eligible for permits. These amendments are needed to implement the statutory change made to ORS 818.210 by the Oregon Legislature. Further, the rules are amended to accurately reflect the most current version of incorporated documents that will apply.

#### Justification

The Oregon Legislature made House Bill 2591 effective upon passage. To accommodate the bill's statutory change immediately, these rules must be amended. The rules also need to be updated immediately to accurately refer to the most current versions of incorporated documents that apply.

#### HWD 5-2019

Filed: 08/19/2019 3:21 PM

734-030-0010	Amend
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#### Statement of Need

Jackson County approved the location of the Replacement Safety Rest Area and Welcome Center with the condition

that ODOT restrict access to the Siskiyou Rest Area and Welcome Center to commercial vehicles of greater than 20,000 GVW, to the extent permitted by law. This condition was intended to address noise issues for adjacent land owners.

The Safety Rest Area and Welcome Center was not designed to separate the traffic from large commercial vehicles from non-commercial vehicles. The traffic conflicts between large commercial vehicles and pedestrians, including children, visiting the Welcome Center creates an immediate safety hazard.

#### **Justification**

The Siskiyou Safety Rest Area and Welcome Center opened on July 31, 2019. It is posted "COMMERCIAL TRUCKS OVER 20,000 G.V.W. PROHIBITED IN REST AREA." None-the-less, since the day of opening, the parking lot has been used continuously by large commercial vehicles. With the adoption of this temporary rule amendment, prohibition of large commercial vehicles can be enforced.

**HWD 6-2019**

**Filed: 10/22/2019 1:26 PM**

734-072-0010

Amend

#### **Statement of Need**

The 2019 Oregon Legislature passed House Bill 2592 which amends ORS 825.450. The amendment eliminates the Oregon Weight Receipt and Tax Identifier previously issued by the Department of Transportation along with the attendant \$8 fee and replaces it with an electronic weight identifier. These amendments are needed to implement this statutory change.

This chapter 734 filing is part one of three. There are additional rules being amended in chapters 735 and 740. Taken together, the 10 rules being amended represent one rulemaking action to implement HB 2592.

#### **Justification**

The Oregon Legislature made House Bill 2592 effective on the 91st day after sine die, which is September 29. The temporary rules reflecting the statutory change are necessary because permanent rulemaking cannot be completed by September 29, when the law becomes effective.

# Department of Transportation, Driver and Motor Vehicle Services Division

## Administrative Rules Annual Report

### HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

#### Chapter 735

#### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	11
Amended	64
Repealed	1

#### Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	19
Suspended	0

#### DMV 13-2019

Filed: 05/20/2019 12:16 PM

735-060-0001	Amend
735-060-0003	Amend
735-060-0030	Amend
735-060-0040	Amend
735-060-0050	Amend
735-060-0051	Amend
735-060-0055	Amend
735-060-0057	Amend
735-060-0090	Amend
735-060-0095	Amend
735-060-0100	Amend
735-060-0101	Amend
735-060-0105	Amend
735-060-0115	Amend
735-060-0120	Amend
735-060-0130	Amend
735-060-0145	Amend

#### Statement of Need

In 1986, DMV established a commercial driver license (CDL) third party testing program allowing qualified entities to administer CDL skills tests to those applicants needing to obtain an Oregon CDL. DMV has started working on a formal procurement process to better align business practices with state contract and procurement laws. This formal procurement will identify qualified businesses and award contracts to successful proposers authorizing them to administer CDL skills tests. These rule amendments must be in place prior to posting the Request for Proposal (RFP). The RFP is projected to post to ORPIN on June 6, 2019. Many of the amendments in this rulemaking align necessary

terminology and testing program requirements with anticipated contracts, interagency agreements and intergovernmental agreements.

#### **Justification**

DMV has identified that its current CDL Third Party Skills Testing Program must better align with state contract and procurement laws. As a result, DMV will be posting an RFP in ORPIN in June of 2019 to solicit qualified entities to administer CDL skills tests on behalf of DMV, aligning current practices with state contract and procurement laws. These rule amendments must be in place prior to the posting of the RFP and any delay in the posting of the rules is additional time that DMV will be delayed in completing the procurement process. The edits to these rules are minor, but substantive in that the current rules do not properly support a formal contracting process. DMV has not permitted any new testing businesses to enter into the program since it identified a formal contracting process was needed over two years ago. This has resulted in roughly a 20 percent reduction in the size of the program during this period. The existing CDL Third Party Testing Program currently supports 12 testing businesses that employ approximately 125 examiners. Neither the number of testing businesses, nor the number of examiners is sufficient to cover the need (approximately 6,000 CDL skills tests annually). The reduced size of this program has resulted in increased numbers of, and extended waiting periods for, individuals needing to take a skills test to obtain a CDL, resulting in serious prejudice to the public interest by further delaying their ability to obtain employment and contributing to the larger commercial vehicle operator shortage nationwide.

**DMV 18-2019**

**Filed: 10/22/2019 1:25 PM**

735-176-0170

Amend

#### **Statement of Need**

The 2019 Oregon Legislature passed House Bill 2592 which amends ORS 825.450. The amendment eliminates the Oregon Weight Receipt and Tax Identifier previously issued by the Department of Transportation along with the attendant \$8 fee and replaces it with an electronic weight identifier. These amendments are needed to implement this statutory change.

This chapter 735 filing is part two of three. There are additional rules being amended in chapters 734 and 740. Taken together, the 10 rules being amended represent one rulemaking action to implement HB 2592.

#### **Justification**

The Oregon Legislature made House Bill 2592 effective on the 91st day after sine die, which is September 29. The temporary rules reflecting the statutory change are necessary because permanent rulemaking cannot be completed by September 29, when the law becomes effective.

**DMV 19-2019**

**Filed: 10/22/2019 4:28 PM**

735-020-0010

Amend

#### **Statement of Need**

The amendment of OAR 735-020-0010 removes a dismantler (wrecker) bill of sale from the list of acceptable primary ownership documents that can be used for the purpose of transferring title when DMV determines the dismantler bill of sale is not on a controlled form issued by the jurisdiction, contains information that is unverifiable, or does not contain language regarding the truth and accuracy of the information contained on the form. DMV staff are unable to verify that information on the form is factual, and the form does not contain certification language regarding the truth and accuracy

of the information. DMV has identified and stopped fraudulent transactions where bills of sale from Washington were presented as ownership documents for stolen vehicles. Fraudulent activity may still be occurring, since the dismantler bill of sale document is not a secure form.

### **Justification**

DMV amends these rules to protect the ownership interests in vehicles. DMV is no longer satisfied (confident) that the person submitting a dismantler (wrecker) bill of sale is the owner of the vehicle and entitled to have a title issued in the applicant's name. DMV finds that its failure to act promptly in this regard will result in serious prejudice to the public interest because there is a substantial likelihood that DMV is receiving fraudulently completed dismantler bills of sale resulting in vehicle owners suffering emotional and economic damages. Without this temporary rule, insurance agencies may suffer economic damages that otherwise could be avoided or reduced if DMV no longer accepted dismantler bills of sale from other states if it is not on a controlled form issued by the other jurisdiction, contains information that is unverifiable, or does not contain language regarding the truth and accuracy of information contained on the form. DMV receives hundreds of dismantler bills of sale from customers each week. Further delaying this rule amendment may result in an owner or insurance company's loss of the economic interest in a vehicle and emotional distress.

Oregon DMV (DMV) has been contacted by the State of Washington, Department of Licensing, California's Regional Auto Theft Task Force (RATT), and the National Insurance Crime Bureau (NICB) regarding the Oregon DMV's acceptance of Washington's dismantler bills of sale. Washington's Department of Licensing has requested that DMV stop issuing Oregon titles based upon the Washington dismantler bill of sale. They are concerned that Oregon DMV's process is used to circumvent Washington's mandated vehicle inspection process. RATT also indicated that acceptance of the Washington dismantler bill of sale enables fraudulent activity impacting the State of California. Lastly, NICB expressed concern that the Washington dismantler bills of sale are easily falsified.

Due to these factors, DMV has determined that continuing to issue Oregon titles based upon a dismantler (wrecker) bill of sale would be inconsistent with our mission to protect ownership rights and financial interest in vehicles. The agency will not accept a dismantler bill of sale if it is not on a controlled form issued by the other jurisdiction, contains information that is unverifiable, or does not contain language regarding the truth and accuracy of information contained on the form.

# Department of Transportation, Transportation Safety Division

## Administrative Rules Annual Report

### HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

#### Chapter 737

#### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	15
Amended	0
Repealed	10

#### Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	2

#### TSD 1-2019

Filed: 01/17/2019 3:15 PM

737-005-0100

Suspend

737-005-0120

Suspend

#### Statement of Need

The two rules in this rulemaking action were adopted temporarily as part of the new Oregon Ignition Interlock Device Oversight Program found in 737-005-0100 through 737-005-0180. After the temporary adoption of the new program, these two rules were identified as being unnecessary and are not being made permanent, while the remainder of the program rules are in the process of being permanently adopted.

#### Justification

Temporary rules cannot be repealed; only suspended. These two rules must be suspended at the same time the rest of the program rules become permanent to avoid confusion for anyone who must read, interpret and comply with the new program rules.



# Department of Transportation, Motor Carrier Transportation Division

## Administrative Rules Annual Report

### HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

#### Chapter 740

#### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	9
Repealed	0

#### Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	9
Suspended	0

**MCTD 1-2019**

**Filed: 02/21/2019 3:40 PM**

740-050-0610

Amend

#### Statement of Need

The moving of household goods has been a historically regulated service at both the state and federal levels. The regulation is intended to protect consumers who generally have little or no experience using a motor carrier service. It was meant to ensure that consumers have good, stable service available at reasonable rates, rather than an oversupply of service providers who could drive rates down to unsustainable levels.

In 2005, ODOT hired a consultant economist to determine if there was a different methodology that could be used for approving tariff rate increases. The analysis conducted found there was a correlation between the Consumer Price Index, All Items for All Urban Consumers, Portland-Salem (CPI-U), and the rate analysis that had traditionally been used. The economist concluded that adjusting rates based upon the CPI-U would produce a similar result to the traditional rate analysis. The CPI-U methodology also simplified the process for approving rate increases and required less staff time. ODOT adopted the methodology and began allowing rate increases in collective rate tariffs based upon successive CPI-U increases in collective tariffs that contained rates that had previously been enacted in 1999.

In 2018, the U.S. Bureau of Labor Statistics (BLS) introduced a new geographic areas sample for the Consumer Price Index (CPI). The Consumer Price Index, All Items for All Urban Consumers, Portland-Salem (CPI-U) was removed as a geographic area. ODOT and BLS researched the Consumer Price Index, West Region and found it to be a comparable index. The index needs to be incorporated into the rule.

#### Justification

The temporary rule addresses an unintended consequence of BLS deleting the index used by ODOT to adjust rates. The temporary rulemaking is necessary to update the rule to the current index. The industry is likely to request a general rate increase in the near future, making the temporary rulemaking necessary to protect the Department from the consequence of not having a specific index in effect at the time of request. The temporary rulemaking will be followed by a permanent rulemaking.

**MCTD 4-2019**                      **Filed: 10/22/2019 1:27 PM**

740-010-0010	Amend
740-020-0010	Amend
740-045-0010	Amend
740-045-0025	Amend
740-045-0120	Amend
740-045-0150	Amend
740-055-0110	Amend
740-300-0040	Amend

### **Statement of Need**

The 2019 Oregon Legislature passed House Bill 2592 which amends ORS 825.450. The amendment eliminates the Oregon Weight Receipt and Tax Identifier previously issued by the Department of Transportation along with the attendant \$8 fee and replaces it with an electronic weight identifier. These amendments are needed to implement this statutory change.

This chapter 740 filing is part three of three. There are additional rules being amended in chapters 734 and 735. Taken together, the 10 rules being amended represent one rulemaking action to implement HB 2592.

### **Justification**

The Oregon Legislature made House Bill 2592 effective on the 91st day after sine die, which is September 29. The temporary rules reflecting the statutory change are necessary because permanent rulemaking cannot be completed by September 29, when the law becomes effective.

## Department of Transportation, Rail Division

### Administrative Rules Annual Report

#### HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

#### Chapter 741

##### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	0
Repealed	0

##### Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	11
Amended	0
Suspended	0

#### RD 1-2019

Filed: 12/17/2019 11:05 AM

741-030-0010	Adopt
741-030-0020	Adopt
741-030-0022	Adopt
741-030-0025	Adopt
741-030-0030	Adopt
741-030-0040	Adopt
741-030-0050	Adopt
741-030-0055	Adopt
741-030-0060	Adopt
741-030-0065	Adopt
741-030-0070	Adopt

#### Statement of Need

ODOT is adopting these rules to establish the procedure for determining eligibility and the application and certification procedures for tax credits under the Short Line Railroad Rehabilitation Tax Credit Program, as required under ORS 315.

#### Justification

The temporary adoption of these rules is necessary given the abbreviated timeline from passage to effective date (91 days from sine die). If ODOT fails to act promptly, taxpayers who own short line railroads could lose out on funding opportunities to defray the costs of rehabilitating their infrastructure.

Operating a railroad is very capital intensive. Short line railroads are formed when larger railroads dispose of small, underperforming segments. Typically these segments come to the short line railroad after decades of deferred maintenance, resulting in widespread, pent up demand for rehabilitation.

It is anticipated that this new program will be popular with Oregon's short line railroads, so ODOT needs to be prepared to assist tax payers with their inquiries.