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Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rules(s) adopted on July 20, 2011 by the
Date prior to or same as filing date.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division 735
Agency and Division Administrative Rules Chapter Number

Lauri Kunze 3930 Fairview Ind. Dr SE, Salem OR 97302 (503) 986-3171
Rules Coordinator Address Telephone

to become effective upon filing Rulemaking Notice was published in the June 2011 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Eligibility for a Hardship or Probationary Driver Permit
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION
List each rule number separately, 000-000-0000.

ADOPT:

AMEND: 735-064-0020

REPEAL:

RENUMBER: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.


AMEND & RENUMBER: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 184.616, 184.619, 802.010, 807.240, 807.252, 807.270 None
Stats. Auth. Other Authority

ORS 807.062, 807.240, 807.250, 807.270, 809.265, 809.380, 809.390, 809.419, 809.421, 813.500, 813.602
Stats. Implemented

RULE SUMMARY

OAR 735-064-0020 establishes who may apply for a hardship or probationary permit and lists those suspensions or revocations that disqualify a person from being issued a hardship or probationary permit. Under ORS 807.240(3)(d), to qualify for a hardship permit a person must show that he or she "is not incompetent to drive nor a habitual incompetent, reckless or criminally negligent driver as established by the person's driving record." A person who is convicted of driving under the influence of intoxicants is required to install an ignition interlock device (IID) to prevent the person from driving after consuming alcohol. ORS 813.602(6) requires DMV to suspend a person's driving privileges for tampering with an IID. Tampering with an IID shows the person is a reckless driver and does not qualify for a hardship permit. Currently, DMV will not issue a hardship permit to a person whose driving privileges are suspended due to tampering with an IID. DMV has amended OAR 735-064-0020 to specify in administrative rule that a person whose driving privileges are suspended for tampering with an IID may not apply for a hardship permit.

 Clyde K. Saiki 07/21/11
Authorized Signer Printed Name Date

* With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

** The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

735-064-0020

Who Can Apply for a Hardship or Probationary Permit

(1) Any Oregon resident whose driving privileges are suspended may apply for a hardship permit unless the person's driving privileges are revoked for any reason or suspended under:

(a) ORS 25.780 for failure to pay child support because ORS 807.250(3) does not allow the issuance of a hardship permit;

(b) ORS 809.260 for court denial of juvenile driving privileges because a person suspended for this reason is eligible for an emergency driver permit per ORS 807.220(4);

(c) ORS 809.280(10) for a controlled substance conviction because ORS 807.250(2) does not allow the issuance of a hardship permit;

(d) ORS 809.419(1) for failure to appear for or pass required tests because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;

(e) ORS 809.419(2) for failure to obtain a required medical clearance because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;

(f) ORS 809.419(3) for a mental or physical condition because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;

(g) ORS 809.421(1) for habitual incompetence, recklessness or criminal negligence or committing a serious violation of the motor vehicle laws because ORS 809.421(1)(b) states this suspension is subject to any conditions the department determines necessary. The department has determined that a person suspended under this subsection may not be issued a hardship permit;

(h) ORS 809.419(5) upon notification by the superintendent of a hospital because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;

(i) ORS 809.419(6) when a person charged with a traffic offense has been found guilty except for insanity because ORS 813.520 provides that no hardship permit may be issued if a person has a mental or physical condition that makes the person unsafe to drive a motor vehicle;

(j) ORS 813.400 and 813.403, and the person fails to install or use an IID in a vehicle(s) the person intends to operate, because under ORS 813.602(1)(a) an IID must be installed before the person is eligible for a hardship permit;

(k) ORS 813.602(6) for tampering with an ignition interlock device because tampering with an ignition interlock device shows the person is a reckless driver and does not qualify for a hardship permit under ORS 807.240(3)(d).

(L) ORS 809.280(5) or 809.416(1) for failure to appear in court, because ORS 807.250(4) does not allow the issuance of a hardship permit; or

(m) ORS 809.416(2) for failure to pay a fine or obey a court order, because 807.250(4) does not allow the issuance of a hardship permit.

(2) DMV will not issue a hardship permit that authorizes a person to operate a commercial motor vehicle because ORS 807.240(2) does not allow the issuance of a hardship permit to drive a commercial motor vehicle.

(3) Any Oregon resident whose driving privileges are revoked as a habitual traffic offender may apply for a probationary permit unless the person's driving privileges are also revoked for any reason other than being a habitual traffic offender or are also suspended for any of the reasons listed in section (1) of this rule. DMV will not issue a probationary permit that authorizes a person to operate a commercial motor vehicle because ORS 807.270(4) does not allow the issuance of a probationary permit to drive a commercial motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.252, 807.270

Stats. Implemented: ORS 807.062, 807.240, 807.250, 807.270, 809.265, 809.380, 809.390, 809.419, 809.421, 813.500, 813.602